

## TITLE X

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## CHAPTER 1

### Parks and Park Activities

#### **Sec. 10-1-1. Definitions.**

For the purpose of this Title, the following definitions shall be observed:

(1) *Director* shall mean the Director of Parks and Recreation or any person to whom he or she has delegated the authority granted by this Code, or any amendment hereto.

(2) *Park* shall mean any area used as a park, reservation, zoo, playground, swim pool, recreation center or facility, golf course or any other area in the City owned or used by the City and devoted or designated to active or passive recreation, either on a temporary or permanent basis.

#### **Sec. 10-1-2. Rule-making power.**

The Director is hereby authorized to adopt and promulgate rules and regulations, in conformity with the ordinances and resolutions of the City concerning the operation of the Department of Parks and Recreation and the conduct of employees thereof, and governing behavior and conduct of persons within the parks and cemeteries. Without in any manner limiting the foregoing authority, the Director may designate the days and hours during which any park or cemetery shall be open to the public and may designate at any time any section or part of any park or cemetery to be closed to the public for any interval of time, either temporarily or at regular and stated intervals and post signs to such effect. In case of emergency, or whenever in the judgment of the City Council the public interest so demands, any or all of the parks or cemeteries may be closed to the public and all persons may be excluded therefrom until the emergency is past or until the City Council gives permission to reopen such parks or cemeteries to the public.

#### **Sec. 10-1-3. Noncompliance; power to remove.**

(a) It shall be unlawful for any person to fail or refuse to obey any lawful order or rules and regulations of the Director or the instructions of any sign posted by him or her unless otherwise directed by a police officer or by the Director.

(b) Should any person fail to observe and obey any such rules and regulations of the Director, the Director may immediately remove such person and may ban such person from the use of any park or cemetery and its facilities for such period of time as may be necessary to secure compliance with such rules and regulations. The Director may summon the aid of the Police Department to enforce the foregoing provisions.

#### **Sec. 10-1-4. Right of appeal.**

Any person removed or banned from use of the park facilities may, within five (5) days from the date of the Director's action, appeal such action to the City Council by filing with the City Clerk an appeal in writing setting forth the basis for such appeal. The City Council shall hear the appeal and may sustain or overrule the Director's action. The decision of the City Council shall be final.

**Sec. 10-1-5. Park uses requiring a permit.**

(a) A permit or reservation shall be required from the Director before participating in any of the following park activities:

(1) Use of any ball field.

(2) Use of any park facilities for a public gathering, entertainment, procession, parade, tournament or exhibition which can reasonably be expected to have an attendance of twenty-five (25) persons or more.

(3) Use of any shelterhouse or equivalent facility.

(b) In addition to the permits provided under Subsection (a) above, the Director, with the approval of the City Manager, may grant the use of park land and facilities, including the right to sponsor periodic events and the hiring of professionals to give instructions for a fee, to a group or organization under the following conditions:

(1) The group or organization is a nonprofit Colorado corporation. An Internal Revenue Service determination letter of nontax liability shall be prima facie proof of such nonprofit status;

(2) The corporation has obtained public liability insurance, approved by the City Attorney's office, in the amounts commonly referred to as 100/300/10 thousand dollars; and

(3) The corporation's use of such park land is in the public interest, and the nonprofit corporation's board of directors adopts a resolution specifically agreeing to indemnify the City from any and all losses and causes of action from whatsoever nature which might arise from the use of said park land and specifically agreeing to abide by all City ordinances, resolutions and regulations. (Ord. No. 3713, 6-11-73)

**Sec. 10-1-6. Application.**

A person seeking issuance of a permit or reservation hereunder shall file an application therefor with the Director. The application shall state:

(1) The name and address of the applicant.

(2) The name and address of the person, corporation or association sponsoring the activity.

(3) The day and hours for which the permit is permitted.

(4) The park or portion thereof for which the permit is desired.

(5) An estimate of the anticipated attendance.

(6) Any other information which the Director shall find reasonably necessary to a fair determination as to whether a permit or reservation should issue hereunder.

**Sec. 10-1-7. Standards for issuance.**

The Director shall issue a permit or reservation hereunder when he or she finds:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(3) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

(4) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the City.

(5) That the facilities desired have not been reserved for other use at the day and hour required in the application.

**Sec. 10-1-8. Appeal.**

Within five (5) days after receipt of an application, the Director shall either issue a permit or reservation or shall advise the applicant in writing of his or her reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within seven (7) days to the City Council, which shall consider the application under the standards as set forth in Section 10-1-7 of this Code and sustain or overrule the Director's decision. The decision of the City Council shall be final.

**Sec. 10-1-9. Effect of permit.**

A permittee shall be bound by all park rules and regulations and all applicable provisions of this Code as fully as though the same were inserted in said permits.

**Sec. 10-1-10. Liability of permittee.**

The person to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person by reason of the negligence of the person to whom such permit shall have been issued.

**Sec. 10-1-11. Revocation.**

The Director shall have the authority to revoke a permit upon a finding of violation of any rule or provisions of this Code, or upon good cause shown.

**Sec. 10-1-12. Park concessions.**

The City Council may operate and provide rides, games, entertainment, refreshments and similar activities in any park with or without fee, or may provide by contract for such activities. All such contracts shall be awarded upon competitive bidding or, if in the discretion of the City Council the public interest will be thereby served, by negotiation with the concessionaire upon such terms and conditions as the City Council shall approve.

**Sec. 10-1-13. Unlawful acts.**

(a) In any park or park property within or outside the City, it shall be unlawful for any person to commit any one (1) or more of the following acts:

(1) To permit any dog or other animal to run at large. *At large* shall mean not under control of the owner or person in charge of the animal, whether by leash, bridle, halter, yoke or other physical means of restraint.

(2) To hitch any horse or other animal to any tree, shrub, fence or other structure except such as are provided for such purpose.

(3) To drive or permit any velocipede, bicycle, tricycle, wheelbarrow, handcart or other vehicle or any horse or other animal to be driven on foot-walks, paths, trails, sidewalks, grass plats or planting places, except that horses shall not be excluded from bridle paths and trails specifically designated for horse riding by appropriate sign.

(b) It shall be unlawful for any person to injure, defoul, deface, damage or destroy any park property. Such unlawful activities shall include, but shall not be limited to, the following:

(1) Depositing or dumping any filth, dirt, stone, tree limbs, garbage, litter or rubbish of any kind.

(2) Befouling any basin, pool, lake or fountain with stones, wood, soap, detergent, dirt or any other substance.

(3) Killing, molesting or disturbing any fish, fowl or animal in any manner, except as otherwise permitted in this Code.

(4) Removing, destroying or injuring any tree, shrub, plant or flower (wild or cultivated) in any manner.

(5) Defacing, removing, destroying or injuring any fence, bridge, building, fountain or other structure or property of any kind.

(6) Digging, removing or carrying away any sward, sand, earth or material of any kind.

(7) Standing, walking, riding or lying upon any place laid out and appropriated for shrubbery or grass when there shall have been placed thereon a sign forbidding the same.

(c) It shall be unlawful for any person except a park concessionaire to engage in any commercial activity of any kind upon park property. Such unlawful activities shall include, but shall not be limited to, the following:

(1) Displaying for commercial purposes any placard, banner or sign.

(2) Permitting any vehicle for hire to stand upon any part of any park for the purpose of soliciting or taking in any passenger or person, except at stands specially designated for such purpose.

(3) Permitting any funeral procession, or any hearse or other vehicle carrying the body of a deceased person for burial, to proceed in or upon any part of any park.

(4) Hawking, peddling, selling, displaying for sale, soliciting or taking orders for the sale of any goods, wares or merchandise.

(5) Fortune-telling.

(6) Begging.

(7) Strolling musicians and entertainers or organ grinders.

(8) Bootblacking.

(d) It shall be unlawful for any person to do any act offensive to public morals or decency upon park property. Such unlawful activities shall include, but shall not be limited to, the following:

(1) Playing at any game of chance.

(2) Performing any obscene or indecent act.

(3) Taking into or upon any park any malt beverage or malt, vinous or spirituous liquor for sale or consumption except where permitted by concession agreement; provided that the consumption of malt beverage in Beulah Mountain Park shall not be deemed unlawful.

(e) It shall be unlawful for any persons to engage in any activity in any public park of a boisterous or hazardous nature which endangers themselves or others or disturbs other users of such park or other persons lawfully in the vicinity. Such unlawful activities shall include, but shall not be limited to, the following:

(1) Indulging in any sport or exercise that is liable to frighten or annoy bystanders, injure travelers or impede the passage of traffic, either pedestrian or vehicular, except at such places as may be designated for such purpose.

(2) Joining in any picnic or games without the consent of the persons of whom they are composed, or in any manner disturbing or interfering with the same.

(3) Building fires except in fireplaces provided therefor. A charcoal blaze may be kindled in a portable charcoal brazier, but care shall be taken that live coals are guarded and completely extinguished before leaving the same.

(4) Going onto the ice on any lake, pond or stream except such as are designated as skating fields and only when the safety signal is displayed.

(f) It shall be unlawful for any person while in or upon any park:

(1) To fail or refuse to comply with any lawful order of the Director.

(2) To fail or refuse to comply with the rules and regulations promulgated by the Director.

(3) To fail or refuse to exhibit any permit issued under Section 10-1-5 of this Code upon demand of any uniformed park employee or police officer.

(4) To engage in any activity prejudicial to the good order and operation of the Department of Parks and Recreation. Such unlawful activities shall include, but shall not be limited to, the following:

a. Erecting any booth, tent, stall or other structure in any park by any private person for any purpose except by written permission of the Director. Nothing contained herein shall prohibit the erection of tents for camp-outs by the Boy Scouts and Girl Scouts in the areas designated for their exclusive use.

b. Entering any building, enclosure or place upon which the words "No Admittance" or similar sign is posted.

c. Doing or performing any act for which a permit is required without first obtaining a permit therefor.

d. Erecting hammocks or moving large numbers of park benches or picnic tables, except by permission of the Director.

No person shall be convicted of a violation under this Subsection unless the offender shall be given an opportunity to correct the prejudicial activity and shall fail or refuse to do so.

(g) It is unlawful for any person:

(1) To take into or upon any park any fermented malt beverage or malt, vinous or spirituous liquor;

(2) To have in his or her possession any fermented malt beverage or malt, vinous or spirituous liquor in any park.

It shall not be a violation of this Subsection (g) for any person to take into or upon or to possess or consume fermented malt beverages in Beulah Mountain Park, or in a park building or enclosed structure, but not upon park grounds, when authorized by a concession agreement approved by the City Council, or when authorized by permit issued by the Director and City Manager in conjunction with the use of such park building or enclosed structure. (Ord. No. 4964, 4-26-82)

**Sec. 10-1-14. Fishing; limitations; bag limit.**

(a) Fishing in any City park lake is permitted only to children between the ages of six (6) years and fifteen (15) years, inclusive, and to wheelchair invalids of all ages. The Director shall designate the days and hours that fishing may be allowed in such lakes.

(b) The limit of fish that may be legally taken from the above designated lakes by any person permitted to fish therein shall be five (5) in number per day.

(c) Fishing hours and bag limit shall be posted on all lakes where fishing is permitted.

**Sec. 10-1-15. Farmers' markets.**

Any other provisions of this Code notwithstanding, the City Council may by resolution permit any person, group or organization to use park land and facilities for the purpose of conducting a farmers' market under the following conditions:

(1) The person, group or organization has obtained public liability insurance, approved by the City Attorney, in the amounts commonly referred to as 100/300/10 thousand dollars;

(2) The person, group or organization has executed an agreement indemnifying the City from any and all losses and causes of action from whatsoever nature which might arise from the use of said park land and facilities and specifically agreeing to abide by all City ordinances, resolutions and regulations;

(3) The person, group or organization conducting the proposed farmers' market shall allow to be exposed for sale at said market only produce, flowers and handcrafts that are grown or made by the seller thereof or his or her immediate family; and

(4) The proposed farmers' market shall be open to the public. (Ord. No. 4189, 6-28-76)

**Sec. 10-1-16. Motorized vehicles prohibited in certain areas.**

(a) As used in this Section, the term *motorized vehicle* shall mean any self-propelled device capable of transporting persons or property, except that such term shall not include motorized wheelchairs used by persons with mobility handicaps.

(b) Except as otherwise provided in Subsection (c) of this Section, it shall be unlawful for any motorized vehicle to be driven or operated in any City-owned park or recreation area or upon any area designated or posted as part of the river trail or bike path system within the City unless the operator has first obtained a permit for operation from the Director.

(c) This Section shall not apply to the operation of a motor vehicle upon any designated street or highway which passes through a City-owned park or recreation area and upon which the operation of motorized vehicles is not expressly prohibited by posted signs or by the provisions of this Chapter or any other ordinance of the City. (Ord. No. 4744, 5-12-80)

**Sec. 10-1-17. Unlawful disposal of litter.**

It shall be unlawful and a municipal offense for any person to deposit or dispose of litter, as defined in Title VII of this Code, which is produced or generated off the site of any park, as defined in this Title, in any containers which are provided in any park for the disposal of litter and trash. Such containers as are provided in all parks are intended, and may be used solely for the purpose of, disposal of litter and trash produced or generated within the park or by activities lawfully conducted therein. (Ord. No. 5633, 9-24-90)

## CHAPTER 2

### Plant Care

#### Sec. 10-2-1. Definitions.

For the purpose of this Chapter, the following definitions shall be observed:

(1) *Public place* shall mean and include any street, alley, sidewalk, parking area, parkway or other public place in the City.

(2) *Plant* shall mean and include any tree, shrub, vine, hedge or other ornamental vegetation.

(3) *Owner* shall mean any person in whom the record fee title is vested, although subject to lien or encumbrance. The holder of a bona fide contract of purchase shall be considered the owner for the purposes hereof.

(4) *Agent* shall mean any person, other than the owner, in charge of or having the control and supervision of the premises. An occupant or tenant of the premises, except hotels, apartment houses, office buildings and other multi-unit dwelling and business buildings shall, for all purposes of this Chapter, be considered an agent.

(5) In all cases where this Chapter shall require any act to be done within a reasonable time, such reasonable time shall be deemed to mean such time only as shall be necessary for the prompt performance of such duty, or compliance with such notice or directive. (1957 Code, §18-19; Ord. No. 3185, 4-8-68)

#### Sec. 10-2-2. Specifications; rules and regulations.

(a) The Director shall promulgate such specifications not in conflict with this Chapter as may be necessary for the orderly and effective trimming, spraying, removal, planting, pruning and protection of plants in the City. He or she shall also prescribe by rules and regulations such safety measures as he or she deems necessary to protect workmen, the public and property; and a copy of the same shall be given without charge to each tree trimmer licensed under the provisions of this Code.

(b) It shall be unlawful to plant or space trees in any public place other than as prescribed in the specifications promulgated by the Director. (1957 Code, §§18-20, 18-28, 15-39)

#### Sec. 10-2-3. Species prohibited.

(a) Except as provided in Subsection (b) hereof, it shall be unlawful to plant, in any public place in the City, any tree of the cottonwood (*Populus spp.*) except for any cottonless variety thereof, box-elder (*Acer negundo*), fruit-bearing variety of mulberry (*Morus alba*), Russian olive (*Elaeagnus angustifolia*), tamarisk (*Tamarix*), or Tree of heaven (*Ailanthus altissima*) genus or species.

(b) Nothing in this Section is intended to prohibit planting of any species of cottonwood trees, and other native species, in any public place in the City located within an S-3 Zone District or within the boundaries of any restoration project undertaken pursuant to Section 206 of

the Water Resources Development Act of 1996, Public Law 104-303, if approved by the Director of Parks and Recreation. (1957 Code, §18-29; Ord. No. 6938 §1, 1-13-03)

**Sec. 10-2-4. Duties of owners of abutting property.**

It shall be the duty of the owner or agent of any property abutting on any public place to:

(1) Treat, trim, spray and otherwise care for any plant which may project beyond the property line of such owner or agent onto or over public property, or which may obstruct the light from any street lamp.

(2) Treat, trim, spray and otherwise care for any plant upon that portion of any public place upon which such property abuts.

(3) Remove any dead plants or dead, overhanging boughs which are dangerous to life, limb or property, located on the premises of such owner or agent or upon public property abutting the premises of such owner or agent.

(4) Eradicate, remove and destroy any plant located on the premises of such owner or agent which shall be infested with any disease detrimental to the growth, health and life of such tree or other trees or plants. (1957 Code, §18-21)

**Sec. 10-2-5. Failure to comply; notice.**

(a) If any owner or agent shall refuse or neglect to comply with any or all of the provisions of this Chapter, the Director shall thereupon serve or cause to be served upon such owner or agent a written notice in compliance with Section 1-1-11 of this Code directing such owner or agent to correct or remedy such condition. The owner or agent shall be given at least ten (10) days from the date of service of such notice to comply therewith.

(b) Any complaints or objections that may be made in writing within ten (10) days from the date of service of any notice issued under the provisions of this Chapter shall be heard and determined by the City Council before final action thereon. (1957 Code, §18-22)

**Sec. 10-2-6. Director causing work to be done.**

If no objection is made, or in the event objection is made and upon hearing duly had, the City Council upholds the directive of the Director, the Director shall be empowered to do or cause to be done the necessary work incident to correcting the condition of which complaint is made in the directive. (1957 Code, §18-23)

Editor's Note: See Chapter 3 of this Title for particular reference to Diseased Elm Trees.

**Sec. 10-2-7. Standards; cutting and pruning.**

It shall be unlawful for any person to cut or prune any tree except in conformity with standards hereinafter set forth; provided that nothing herein contained shall prohibit any owner from trimming or causing any tree upon his or her private property to be trimmed in any desired fashion:

(1) No tree shall be "topped" except in the process of removal of such tree, clearance of existing utility lines, interference with an existing building or the death or mutilation of that portion of such tree.

(2) Maple, birch and walnut trees shall be pruned when in full leaf.

(3) Upon the removal of any limb or branch, the final cut shall be made flush with the trunk or limb to avoid leaving a stub or projection of growth through which decay or rot may set in.

(4) All cuts of one (1) inch diameter or greater shall be painted with a wound dressing approved by the Board of Tree Trimmer Examiners.

(5) Trees growing over or upon the public way shall be so cut or pruned as to provide a minimum of fifteen (15) feet clearance over the surface of the public way for vehicular travel, and so as to provide a minimum of eight (8) feet clearance over the surface of the public way devoted exclusively to pedestrian travel.

(6) In pruning mature trees, attention shall be given to the removal of dead and decaying matter, including the removal of old stubs and the recutting of improper cuts previously made. Crossing or rubbing limbs should be removed or eliminated. The crown of the tree shall be balanced. Excessively large cuts shall be made only when the same will result in a sounder, safer and more desirable plant and can be made with good possibility that decay will not be introduced at the site of such cut.

(7) Open cavity work or complete cavity filling, accompanied by cabling where necessary, is permitted where the same will tend to preserve or extend the life of an otherwise desirable tree.

(8) Spurs or climbers shall not be used, except when the tree is to be completely removed.

(9) Tools used on a tree known to be infected with a contagious disease shall be disinfected before being used on any other tree or plant.

(10) Damage to adjacent trees caused by removal, cutting or pruning shall be properly repaired.

(11) All work performed in the cutting, pruning and trimming of trees shall be done in a careful and prudent manner, with due regard for the limitations of the equipment being used, the type and size of tree upon which the work is being performed, the condition of the weather, the condition of traffic, both pedestrian and vehicular, in the area, the proximity of adjacent trees, plants, shrubs, buildings and other property, and all other attendant circumstances. (1957 Code, §15-37.1; Ord. No. 2624, 5-8-61)

#### **Sec. 10-2-8. Standards; safety regulations.**

It shall be unlawful for any person to cut, prune, trim, treat or spray any tree in the City except in conformity with the standards herein set forth:

(1) Any person cutting, pruning, trimming, treating or spraying any tree in any public way is hereby required to furnish and place in position, when doing such work, barricades worded, "Fallen Trees" or "Street Closed--Do Not Enter," and such barricades shall also contain thereon the name of the licensee where applicable.

(2) Any person cutting, pruning, trimming, treating or spraying any tree in any public way shall not in any way impede or restrict the normal flow of vehicular traffic without having first obtained the permission of the Traffic Engineer to do so. The Traffic Engineer shall grant such permission, provided that it shall be made to appear that the work shall be done at such times as will least impair the normal flow of traffic upon said street, that traffic can be reasonably rerouted and that such impedance shall be restricted to the minimum time necessary to accomplish the work to be performed.

(3) At any time when one (1) or more persons shall be at work in the upper portions of a tree twenty-five (25) feet or more above the ground, one (1) responsible person shall be on the ground to coordinate operations.

(4) Red lanterns or flares or other warning devices and adequate barricades shall be placed and properly maintained in an effective manner on or about any obstruction on the public way so as to give adequate notice of any hazardous condition to all passing vehicular and pedestrian traffic.

(5) Stumps resulting from the removal in any public place shall be completely removed to a depth of at least six (6) inches below surrounding grade.

(6) Holes resulting from tree removal shall be properly filled so as not to constitute a hazard.

(7) Worn-out or unsafe tools or equipment, or unsafe or hazardous methods of operation shall not be used.

(8) Branches, logs and debris shall be disposed of in an orderly manner as the work progresses, and shall not be accumulated in such quantities as to be a nuisance or hazardous to persons or property. (1957 Code, §15-38; Ord. No. 2624, 5-8-61; Ord. No. 2781, 5-13-63)

#### **Sec. 10-2-9. Standards; spraying.**

It shall be unlawful for any person to spray or otherwise chemically treat any tree except in conformity with the standards herein set forth:

(1) Any person operating spraying equipment shall be familiar with the properties of the insecticides, fungicides or other materials used. Such person shall inform himself or herself of the recommendations of the manufacturer, and shall be responsible for any damage resulting from failure to follow the manufacturer's recommendations or from failure to properly inform himself or herself of the commonly known properties of all materials used by him or her. No licensee hereunder shall make any claim of control beyond the manufacturer's statement or beyond the properties of the materials used as commonly known and understood in the local plant-care industry.

(2) All equipment used to spray herbicides must be plainly marked with a painted brand "Plant (or Weed) Killer" in letters at least one (1) inch high, and shall not thereafter be used to spray insecticide or fungicide unless the same shall have been steam-cleaned or cleaned with a strong soap solution and aired for at least forty-eight (48) hours.

(3) All sprayers in excess of five-gallon capacity shall be equipped with power-driven agitators.

(4) Spraying shall not be performed when the temperature is below forty degrees (40°) F or above ninety degrees (90°) F.

(5) Spray equipment shall be kept clean and in good working order at all times. The Director is hereby authorized to inspect such equipment at any time it may be in use upon any tree or plant in the public way and to take a sample of the substance being sprayed for analysis. No person shall improperly or indiscriminately use any substance or material harmful to trees or plant life.

(6) Spraying shall not be performed when there is sufficient wind to make the spray ineffectual or to create a hazard to persons or property from drifting of such spray.

(7) The method of spraying shall be adopted to the power and capacity of the equipment used. All work shall be performed within the proven safe limits of the equipment and in such a manner as to safeguard the operator, adjacent trees, shrubs, structures, pedestrians, vehicles and other property in the area which may be affected by act of spraying and the substance or material used in such spray.

(8) All work performed in the spraying of insecticides, fungicides or herbicides shall be done in a careful and prudent manner with due regard to the manufacturer's recommendations, the toxicity of the substances used, atmospheric conditions, the known limitations of the equipment used, and all other attendant circumstances. (1957 Code, §15-37.2; Ord. No. 2624, 5-8-61; Ord. No. 2781, 5-13-63)

#### **Sec. 10-2-10. Public property; permit for cutting.**

It shall be unlawful for any person to cut down, trim, prune, treat or remove any tree situated on any public way within the limits of the City without first securing a permit therefor from the Parks Department, and such permits shall be issued without charge. (1957 Code, §15-36; Ord. No. 2624, 5-8-61; Ord. No. 2781, 5-13-63)

#### **Sec. 10-2-11. Private property; permit for cutting.**

Any property owner of the City, whether licensed or unlicensed, may cut down, trim, prune, treat or remove any trees situated on his or her own property and in the parkway adjacent thereto; provided that, when trimming, pruning, treating or removing trees in the parkway, he or she shall secure a permit and comply with the provisions of this Chapter. (1957 Code, §15-37; Ord. No. 2624, 5-8-61; Ord. No. 2781, 5-13-63)

#### **Sec. 10-2-12. Waste; disposal as prescribed.**

The City Manager shall designate certain places for the disposal of tree waste, and it shall be unlawful for any person to dispose of such waste at any other place than the one (1) so

designated. All diseased or infested trees or waste or trimmings from diseased or infested trees shall be disposed of in a manner and place to be designated by the City Manager, and it shall be unlawful for any person to dispose of such diseased or infested trees in any manner or place other than as designated by the City Manager. Such disposition of diseased or infested trees or tree waste shall be made as shall reasonably assure that such infestation or disease shall not reappear or spread. (1957 Code, §15-40; Ord. No. 2624, 5-8-61; Ord. No. 3124, 6-26-67)

**Sec. 10-2-13. Suitable vehicle required.**

It shall be unlawful to leave tree branches, trimmings or other debris resulting from the cutting, pruning or removal of any tree for an unreasonable time on the sidewalk or parkway or in the streets or gutter; or to transport or remove the same over any road or street within the City, unless it is first loaded upon a suitable vehicle. (1957 Code, §15-41; Ord. No. 2624, 5-8-61)

**Sec. 10-2-14. Red flag on vehicle.**

It shall be unlawful for any person to transport a truckload of tree trimmings which extends beyond the truck body in any direction without displaying a red flag on each side of the truck and at the rear of the load. (1957 Code, §15-42; Ord. No. 2624, 5-8-61)

### **CHAPTER 3**

#### **Elm Trees**

**Sec. 10-3-1. Diseased and infested elm trees; nuisance.**

The following condition is declared to be a public nuisance wherever found within the City:

(1) Any living or standing elm tree or part thereof infected with the Dutch elm disease, *Ceratocystis ulmi* (Buisman) Mureau, or any of the elm bark beetles, *Scolytus multistriatus* (Eich.) or *Hylurgopinus rufipes* (March.) or European elm scale, *Gossyparia supria* (Mod.), or elm leaf beetle, *Galerucella xanthomelaena* (Schrank). As used herein, the word *infected* or *infection* shall mean also *infested* or *infestation*.

(2) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed.

(3) Any dead or severely damaged branch or part of an elm tree. (1957 Code, §18-30.1; Ord. No. 3624, 11-13-72)

**Sec. 10-3-2. Unlawful to permit.**

It shall be unlawful for any person to permit any public nuisance, as defined in Section 10-3-1 of this Chapter, to remain on any premises owned or controlled by him or her within the City. Such nuisance may be abated in the manner prescribed in Section 10-3-4 of this Code. (1957 Code, §18-30.1)

### **Sec. 10-3-3. Inspection.**

(a) The Director shall inspect all premises and places within the City as often as practicable to determine whether any condition described in Section 10-3-1 of this Chapter exists therein. He or she shall investigate all reported incidents of infection of elm trees or dead wood elm trees.

(b) The Director may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to him or her hereunder.

(c) Upon finding conditions indicating any such infection, the Director shall immediately take such steps for diagnosis as may be necessary. (1957 Code, §18-30.1; Ord. No. 3624, 11-13-72)

### **Sec. 10-3-4. Abatement procedure.**

In abating the nuisances defined in Section 10-3-1 of this Chapter, the elm tree or part thereof constituting such a nuisance shall be removed, trimmed and disposed of, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of any condition described in Section 10-3-1 of this Chapter. All elm trees within a radius of two hundred fifty (250) feet of any infected tree or wood shall also be treated. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designated by the Director. The Director shall establish specifications for removal, treatment, trimming and disposal methods consistent therewith. (1957 Code, §18-30.1; Ord. No. 3624, 11-13-72)

### **Sec. 10-3-5. Notice; abatement.**

(a) Whenever the Director finds with reasonable certainty that any nuisance defined in Section 10-3-1 hereof exists on private property or upon public property abutting private property in the City, he or she shall notify the owner, person in control of such property, or the property owner abutting the public property on which the nuisance is found, of the nuisance, and shall direct that the nuisance be trimmed, removed and disposed of or otherwise effectively treated in an approved manner by such owner or person within ten (10) days after receipt of such notice. The notice shall also state that if such nuisance shall not have been abated by the owner or such person within the time provided, the owner or person in charge may be charged with a violation of Section 10-3-2 of this Chapter for maintaining a nuisance and that the City may abate such nuisance and assess the cost against such property.

(b) If the owner, person in control or abutting property owners fail to remove, trim and dispose of or otherwise effectively treat such nuisance within ten (10) days after receipt of such notice, the Director shall proceed to have such nuisance removed, trimmed and disposed of, or otherwise effectively treated. Any expense incurred by the City in so doing, plus interest thereon at the rate of ten percent (10%) per annum, shall, upon recording in the County Clerk and Recorder's office of a statement under oath of the City Manager showing the expenses thereof and describing said property or abutting property, be a perpetual charge and lien upon said property or abutting property, having priority over all liens and encumbrances except general tax liens until paid in full, and such expenses plus interest thereon at ten percent (10%) per annum may be collected from the owner of the property or abutting property in an action at law. (1957 Code, §18-30.1; Ord. No. 3624, 11-13-72; Ord. No. 5570, 11-27-89)

**Sec. 10-3-6. Transporting within City.**

It shall be unlawful for any person to transport within the City any bark-bearing elm wood without first having obtained a permit from the Director. The Director shall grant such permits only when the purpose of this Chapter shall be served thereby. (1957 Code, §18-30.1)

**Sec. 10-3-7. Interference unlawful.**

It shall be unlawful for any person to prevent, delay or interfere with the Director while engaged in the performance of duties imposed by this Section. (1957 Code, §18-30.1)

**CHAPTER 4**

**Golf Courses**

**Sec. 10-4-1. Definitions.**

For the purpose of this Chapter, the following definitions shall be:

(1) *Annual green fee* shall mean that sum of money required by resolution of the City Council to be paid in order to permit a player to play the golf courses for a period of one (1) year from January 1 to December 31 of each year.

(2) *Daily green fee* shall mean that sum of money required by resolution of the City Council to be paid in order to permit a player to play the golf courses on any given day.

(3) *Golf courses* shall mean and include:

a. The 27-hole golf course, clubhouse and related buildings and structures located at 3900 Thatcher Avenue on approximately one hundred ninety-two (192) acres of land known as the Elmwood Golf Course.

b. The 18-hole golf course, clubhouse and related buildings and structures located at 4301 Walking Stick Boulevard on approximately one hundred eighty (180) acres of land known as the Walking Stick Golf Course.

(4) *Golf pro* shall mean the golf professional who manages the golf courses, teaches golf, sells golf equipment and supplies and assists in other duties in the operation of the golf courses.

(5) *Improvement fee* shall mean that sum of money required by resolution of the City Council to be paid in addition to an annual green fee or a daily green fee in order to permit a player to play the golf courses on any given day.

(6) *Pro shop* shall mean that building used by the golf pro for office and for the display of merchandise and the repair of golf equipment. (1957 Code, §18-31; Ord. No. 3448, 5-24-71; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-2. Green fees; payment.**

It shall be unlawful for any person other than the golf pro and authorized golf course personnel to play golf on the golf courses without first having paid in full an annual or daily green fee and improvement fee for that purpose. (1957 Code, §18-32; Ord. No. 3448, 5-24-71; Ord. No. 4318, 5-23-77; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-3. Golf pro contract.**

The City Council may contract with any member of the Professional Golfer's Association or any entity who employs on a full-time basis a member of the Professional Golfer's Association to manage the golf courses and to operate the pro shop facilities or such other facilities of the golf courses as the City Council shall provide by contract. Such contract shall be deemed a contract for professional services and not subject to the requirement for competitive bidding. (Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-4. Collection; receipts; bond.**

All annual or daily green fees and improvement fees shall be collected by the golf pro. Receipts furnished by the golf pro shall be given for each green fee and improvement fee paid, and the records therefor shall be kept in accordance with directions of the Director of Finance. No partial payment of any green fee shall be accepted. Those in charge of such collections shall be bonded by the golf pro. All fees collected by the golf pro shall be held in trust by the golf pro for the use and benefit of the City and shall be remitted to the City at such times and in such manner as the Director of Finance shall determine. (1957 Code, §18-33; Ord. No. 3448, 5-24-71; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-5. Trespass; exceptions.**

It shall be unlawful for any person not playing golf or taking lessons from the golf pro to frequent, trespass or walk upon or across any portion of the golf course premises other than the premises immediately adjacent to the clubhouse and pro shop, or to knowingly permit his or her minor child to do so; provided, however, that the following cases shall be excepted:

(1) When a tournament is in progress and the public has been invited, persons over twelve (12) years of age, and minors under twelve (12) years of age if accompanied by parents, may follow the progress of any players in the tournament as spectators;

(2) Any caddy who is registered by the golf pro as such and whose services have been engaged by a player, or any caddy brought by a player to the course for the purpose of caddying; and

(3) Any guest of a player or a member of a player's family. (1957 Code, §18-34; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-6. Vehicles prohibited; exceptions.**

It shall be unlawful for any person to drive or operate any motor vehicle of any kind upon any portion of the golf course at any time unless the vehicle is:

(1) Equipment used by authorized golf course personnel or contractors for the maintenance and care of the golf courses; or

(2) A motorized conveyance built and designed especially for use by golfers on the golf course, provided that the same does not exceed one thousand two hundred fifty (1,250) pounds by actual weight, unloaded, and provided further that such conveyances may be used only at such times as the golf pro shall designate, but at no time shall they be permitted on the greens, tees or traps or within twenty (20) feet thereof. (1957 Code, §18-35; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-7. Golfing groups; sizes.**

During periods of heavy play on the courses, it shall be desirable for play to proceed in foursomes; provided, however, that when, in the opinion of the starter or in his or her absence, the golf pro, the circumstances may justify a threesome or a fivesome, he or she may permit the same. At no time shall more than five (5) players be permitted in one (1) group except when play is light and special permission has first been obtained from the golf pro. (1957 Code, §18-38; Ord. No. 4318, 5-23-77; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-8. Damages; greens, fairways; restitution; suspension.**

It shall be unlawful for a player to damage the greens or to unnecessarily damage the fairways of the golf courses in the course of play thereon, and any person so offending shall, in addition to the penalties provided in this Code, be suspended from further play thereon until he or she has made full restitution to the City for such damage. (1957 Code, §18-39; Ord. No. 4318, 5-23-77; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-9. Course; restitution; suspension.**

It shall be unlawful for any player or other person to damage or injure the golf courses by driving an automobile thereon, or in any other manner whatsoever, and any person so offending shall, in addition to the other penalties provided in this Code, be required to make full restitution to the City for the amount of such damage, and further such offender shall be suspended from further play thereon until such restitution has been made. (1957 Code, §18-40; Ord. No. 4318, 5-23-77; Ord. No. 6791 §1, 3-25-02)

**Sec. 10-4-10. Practice driving range; authorized balls; recovery; disposition of unauthorized practice balls.**

(a) It shall be unlawful for any person, except the golf pro and authorized golf course personnel, to drive, strike or in any manner propel or hit any practice golf ball upon that portion of the golf course set aside as a practice driving range without first having paid a fee for such purpose.

(b) It shall be unlawful for any person, except the golf pro and authorized golf course personnel, to go upon that portion of the golf course set aside as a practice driving range for the purpose of recovering practice balls.

(c) Authorized golf balls shall be furnished by the golf pro in sufficient quantity for use only upon the practice driving range. Such balls shall be clearly marked with an easily distinguishable mark or emblem identifying such ball as an authorized golf ball to be used only

upon the practice driving range. It shall be unlawful for any person to play golf upon the golf courses using any ball marked and identified as an authorized practice golf ball. (1957 Code, §18-41; Ord. No. 4318, 5-23-77; Ord. No. 6791 §1, 3-25-02)

## **CHAPTER 5**

### **Cemeteries**

#### **Sec. 10-5-1. Definitions.**

For the purpose of this Chapter, the following definitions shall be observed:

(1) *Burial rights* shall mean the exclusive use of land for burial purposes.

(2) *Cemetery* shall mean any City-owned and City-operated cemetery, including the Mountain View Cemetery, the Mountain View Annex and the Northside City Cemetery formerly known as the "City Cemetery" and "Old City Cemetery," and any other cemetery or burial grounds which the City may now own or hereafter acquire. All such cemeteries are set apart and shall be maintained for burial of the dead. (Ord. No. 2240, 5-14-56; 1957 Code, §18-3)

#### **Sec. 10-5-2. Management.**

The Director of Parks and Recreation and his or her successors shall have charge and control of cemeteries and shall operate and maintain the same. (Ord. No. 2240, 5-14-56; 1957 Code, §18-4)

#### **Sec. 10-5-3. Rules and regulations.**

The Director shall make rules and regulations not inconsistent with this Chapter for the management and control of the cemeteries incident to the sale of burial rights, disinterment and removal or reburial of bodies; and for the care, control, management, beautification, ornamentation and preservation of such cemeteries and for such other matters or things as may be deemed necessary or expedient in connection with the operation and management thereof. (Ord. No. 2240, 5-14-56; 1957 Code, §18-5)

#### **Sec. 10-5-4. Fixing purchase price.**

The purchase price of burial rights in all lots and parts of lots shall be fixed from time to time by resolution of the City Council. (Ord. No. 2240, 5-14-56; 1957 Code, §18-6)

#### **Sec. 10-5-5. Sale for resale.**

No burial rights in any lot or part of a lot in any cemetery shall be sold or transferred to a funeral director or other person for resale in whole or in part; provided, however, that nothing herein shall be construed as prohibiting repurchase of same by the City. (Ord. No. 2240, 5-14-56; 1957 Code, §18-7)

**Sec. 10-5-6. Certificate of purchase; delivery.**

Upon payment for burial rights in any lot or part of a lot in any cemetery, a certificate of purchase shall be delivered to the purchaser thereof. The City Clerk, upon payment for lots or parts of lots in the cemetery, shall deliver to the purchaser thereof a certificate of purchase, signed by the City Clerk and under the seal of the City, in such form as shall, from time to time, be approved by the Council by resolution. (Ord. No. 2240, 5-14-56; 1957 Code, §§18-8, 14; Ord. No. 3447, 5-24-71)

**Sec. 10-5-7. Map; adoption of.**

There is on file in the office of the City Clerk a map of Mountain View Cemetery which shows the blocks, lots and parcels of ground, and streets and walks therein. Such map is hereby accepted and adopted by the City Council as the official map of Mountain View Cemetery, and burial rights in such cemetery may be sold for cash payments at prices and under limitations and conditions as herein set forth. (Ord. No. 2240 §7, 5-14-56; 1957 Code, §18-9)

**Sec. 10-5-8. Map; adoption; prices; cross-hatching.**

There is on file in the office of the City Clerk a map of Mountain View Cemetery Annex which shows the blocks, lots and parcels of ground, and streets and walks therein. Such map is hereby accepted and adopted as the Official Map of Mountain View Cemetery Annex. Burial rights in lots or parcels of land in such cemetery shall be sold for cash payments at prices and under limitations and conditions as follows:

(1) Perpetual Care Endowment. In addition to the purchase price for burial rights, each purchaser shall pay for the endowment for perpetual care of such lots or parcels of lots within a distance of not more than forty (40) feet from any street (hereinafter called street sections) at a rate to be fixed by the Council by resolution. No burial right shall be sold in Mountain View Cemetery Annex unless the purchaser shall also pay the amount provided for perpetual care.

(2) Reservations. The cross-hatched area as shown on such map shall not be sold for burial right or any other purpose but shall be reserved for parkway. (1957 Code, §18-13)

**Sec. 10-5-9. Prior sales; confirmation.**

All sales of burial rights in any lot or parcel of land heretofore made in any cemetery are hereby ratified and confirmed as though authorized by this Chapter, and such right thereto shall be secure in the present owners thereof and shall be as if executed and made under the direct authority of this Chapter. (Ord. No. 2240, 5-14-56; 1957 Code, §18-10)

**Sec. 10-5-10. Use of moneys.**

All moneys received as the purchase price of such burial rights shall be paid to the City Treasurer as part of the cemetery maintenance fund, and shall be expended as directed by the City Council for maintenance, improvements, beautification and enlargement of any cemetery, and for no other purpose. (1957 Code, §18-15)

**Sec. 10-5-11. Endowment fund; use of moneys.**

All endowment moneys received from purchasers of burial rights in such cemeteries shall be held by the Director of Finance as a trust endowment fund. The endowment fund shall be entirely independent of, and in addition to, the purchase price of burial rights in lots or parcels of ground which it shall endow, as above stated and set forth. The moneys in such endowment fund and the increase and proceeds thereof shall be held as a permanent fund with the income thereof to be devoted to the perpetual care and upkeep of the Mountain View Cemetery Annexes 1 and 2. All moneys that are at any time in such endowment fund shall be invested and kept invested in such securities as the City Council shall by resolution direct or approve. The City Council shall be the trustee of such fund and responsible for the expenditure and investment of the money in such fund. The Director of Finance shall, on or before December 31 in each year, and at such other times as the City Council shall demand, present to the City Council a full written statement showing the securities in which the moneys belonging to such fund are invested. (1957 Code, §18-16)

**Sec. 10-5-12. Northside City Cemetery.**

In the interest of economy, it is the intention of the City Council that the Northside City Cemetery shall be operated and maintained as a memorial park. To this end, the installation of monuments which protrude above or sink below the surface of the ground is forbidden, except that a monument designating or memorializing a segment of the cemetery containing not less than one (1) full block thereof may be erected upon written resolution of the City Council approving the design and placement thereof. Existing monuments shall be permitted to remain, except that monuments which have been or hereafter may be thrown down or obliterated may be removed unless reset in their proper location at the expense of the holder of burial rights or a descendant thereof or the lodge or order of which the deceased was a member; provided that old monuments not so reset on or before January 1, 1970, shall be reset only in such a manner that the exposed surface thereof shall be level with the surrounding ground.