

Chapter 78

TREES*

* **Cross References:** Tree commission, § 6-381 et seq.; subdivisions, ch. 72.

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Sec. 78-1. Purpose; short title.

(a) *Purpose.* This chapter will serve to protect the health, safety and welfare of the citizens of the city by regulating tree management activities. The protection of this valuable natural resource will serve to enhance the community in the following ways:

- (1) Aid in the prevention of air, noise and visual pollution.
- (2) Aid in the stabilization of soil.
- (3) Enhance property values.
- (4) Provide glare and heat protection.
- (5) Enhance the aesthetics and general quality of life of the city.

(b) *Short title.* This chapter shall be known and may be cited as the Warwick Tree Ordinance.
(Code 1971, § 25-1)

Sec. 78-2. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future and words in singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Applicant means a person who is applying for a license or permit required by this chapter.

Approval means written assent from the city tree commission or the tree warden pursuant to a duly executed application for approval made on a form promulgated by the city.

Parks includes any city public spaces designated for recreation and/or conservation.

Property line means the boundary between private and city-owned land.

Property owner means the person owning such property as shown by the records of the recorder of deeds of the city.

Public space includes any other ground owned by the city.

Public trees includes all trees now or hereafter growing on any street, park or any other public place.

Street and *highway* mean the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

Tree means any living, self-supporting woody plant that has a well-defined stem(s) with a caliper of at least 1 1/2 inches (3.81 centimeters) at DBH at 4 1/2 feet (1.37 meters) from the ground level.

Tree lawn means that part of a street or highway not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

Tree removal includes any act that will cause a tree to die within a three-year period.

Tree warden means the municipal arborist, tree warden, landscape architect, director, division of grounds maintenance services, supervisor of urban forestry operations or other qualified designated official of the city assigned to carry out the enforcement of this chapter.

Tree well opening means the ground area surrounding the base of the tree trunk not covered by sidewalk and paving. Tree well openings shall have a minimum pit size of three feet by three feet. The root barrier will be placed on two sides only, the street side and the sidewalk opposite of the street.

(Code 1971, § 25-2)

Cross References: Definitions generally, § 1-2.

Sec. 78-3. Tree warden; authority of city to treat or remove trees on private grounds.

(a) *Appointment and qualifications of tree warden.* The tree warden shall be appointed by the city tree commission. This person shall have training and experience in arboriculture and shall have passed the state arborist exam.

(b) *Duties of tree warden.*

(1) The tree warden shall affirm and endorse the purpose and intent of the city tree preservation and protection ordinance and shall cause the provisions of this chapter to be enforced.

(2) The tree warden shall, with the advice of the tree commission and the approval of the city

council, prepare and enact a systemized tree management and annual tree planting program for the city, which shall be prepared as an integral part of a master systemized tree management and tree planting plan which shall be adopted with five years of the inception of this chapter.

- (3) The tree warden is further charged with keeping informed of environmental and technical changes that could affect the city's public and protected trees.
 - (4) It shall also be the duty of the tree warden to implement such rules, regulations, and permit and penalty procedures as are deemed necessary to carry out the intent and enforcement of this chapter.
 - (5) The tree warden shall communicate and work with all civic and public interest groups interested in or devoted to tree care, preservation or planting.
- (c) *General authority of tree warden.*
- (1) The tree warden shall have the authority and jurisdiction of regulating and enacting the maintenance, removal and planting of public and protected trees to ensure public safety, preserving the aesthetics of public sites with regard to trees, and protecting the value and health of the city urban forest as a whole.
 - (2) The tree warden shall consider the existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites and when issuing permits for tree work, removal or planting.
 - (3) The tree warden shall have the responsibility of regularly updating the master systemized tree management and planting program.
 - (4) The tree warden shall have the authority to review all requests for permits for any planting, removal, pruning and/or trimming or cutting of trees in any public area, with the exception of an historic or protected tree. He/she shall also have the authority to grant or deny and to attach reasonable conditions to all permits with the exception of those specifically exempted herein.
 - (5) The tree warden shall enforce such rules, regulations, and permit and penalty procedures as are deemed necessary to enforce the intent of this chapter.
- (d) *Authority of city to treat or remove trees on private grounds.*
- (1) The tree warden or his/her agent, under the power herein given, may cause or order to be removed, trimmed or treated any tree or part thereof on private grounds which is in an unsafe condition so that it poses a threat to public or public property, or which by reason of its nature is injurious to sewers or other public improvements or rights-of-way, or is afflicted with an injurious fungus, insect or other pest so as to constitute a threat to the health of the city's urban forest.
 - (2) The tree warden or his/her agents shall have the power to enter upon any private grounds in the

city to treat or cause or order to be treated any tree infested by a parasite, insect or pest when it shall be deemed necessary in his/her opinion to do so to prevent the breeding of any parasite or animal pest and to prevent danger therefrom to person or property or to trees planted in the public street or other public places. Due notice shall be given to the property owner prior to any action on the part of the tree warden.

- (3) It shall be unlawful for any person to hinder, prevent, delay or interfere with the tree warden or any work being done by an employee of the city, while engaged in the lawful execution of this chapter. This shall not be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in a court of competent jurisdiction.

(Code 1971, § 25-4)

Sec. 78-4. Pruning of trees overhanging street or sidewalk.

It shall be the duty of person(s) owning or occupying real property bordering on any public street or thoroughfare upon which property there may be trees to prune such trees in such a manner so that they will not obstruct or shade streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the view of any street or intersection so as to pose a threat to pedestrian or vehicular safety. The minimum clearance of an overhanging portion thereof shall be eight feet (2.44 meters) over sidewalks and 12 feet (3.65 meters) over all streets and thoroughfares and/or as specified at the discretion of the tree warden.

(Code 1971, § 25-5)

Cross References: Streets and sidewalks, ch. 70.

Sec. 78-5. Protection of trees during development or construction; injuring trees.

(a) During development, redevelopment, razing or renovating no trees shall be cut, damaged or removed except by specified permit. All trees removed, destroyed or severely damaged shall be replaced at the expense of the permittee. The total caliper of all trees planted in the course of restoration shall in no event be less than the total caliper of all trees removed. Replacement shall be made with 2 1/2- to six-inch caliper trees and/or as directed by the tree warden. If sufficient tree planting locations are unavailable within the contract area, the replacement trees shall be planted within one-quarter mile of the contract area as determined by the tree warden, except by special permit of the tree warden.

(b) All trees within 30 feet (9.1 meters) of any excavation or construction of any building, structure or street work shall be guarded through the length of the project with a good substantial fence, frame or box not less than four feet (1.2 meters) high and eight feet (2.4 meters) square, or equivalent. All equipment, building materials, chemicals, dirt or other debris shall be kept outside the barrier at all times.

(c) No person shall intentionally damage, cut, carve or transplant any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, chemical or solid substance that is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree without first obtaining a written permit from the tree warden.

(d) No person shall deposit, place, store or maintain any stone, brick, sand, fill dirt, concrete or other materials that may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the tree warden.

(e) No person shall preclude the percolation of water or nutrients and gaseous exchange vital to a tree's survival by the placing of any impervious materials (asphalt, macadam concrete) within the confines of the tree well opening.
(Code 1971, § 25-6)

Sec. 78-6. Planting of trees on public street or public place.

(a) Any person desiring to plant a tree upon any public street or public place must first obtain a permit from the tree warden. Any permit shall be granted to a date certain and shall include consideration of appropriateness of species, location, size and public safety.

(b) Should the planting(s) be performed by persons other than the tree warden or his/her agents, the proposed method and workmanship for planting as prescribed by the tree warden shall be adhered to.

(c) A planting plan is required where more than six trees are to be planted.

(1) Any person desiring to plant more than six trees on public streets or on public places shall, in addition to applying for a permit, submit a plan or written statement in duplicate to the tree warden, who shall return one copy to the applicant and keep one copy on file with the city. The tree warden shall consult with the tree commission prior to issuing a permit to plant.

(2) All planting plans shall show accurately:

- a. The proposed park or public place site, or proposed street width, with any curbs, parking strips, driveways, sidewalks and adjacent structures defined to scale.
- b. The proposed location of each proposed tree, together with the location of each existing tree within the proposed site in scaled relation to the other features of the plan.
- c. The species of each and every tree proposed to be planted and of those already existing within the proposed site, either indicated on the plans or referenced with a number with a key list.

(Code 1971, § 25-7)

Sec. 78-7. Waiver of requirements during emergencies.

The requirements of this chapter may be waived by the mayor in the case of emergencies such as windstorms, ice storms or other disasters so that they in no way shall hinder private or public work to restore order in the city. This work shall follow maintenance standards as outlined by the tree warden.

(Code 1971, § 25-8)

Sec. 78-8. Protection of trees during moving of buildings or other objects.

No person shall move any building or any other large object that may injure public or protected trees or parts thereof without first obtaining the written approval of the tree warden and abiding by his/her requirements.

(Code 1971, § 25-9)

Sec. 78-9. Permit for work on public trees.

(a) *Generally.* A permit shall be a written document that authorizes the bearer thereof to perform the proposed work as outlined on such permit. The permit shall be issued only by the tree warden or his/her representative.

(b) *Application; issuance.* A permit shall be obtained by filling out an application. Upon approving the application, the tree warden or his/her representative shall issue said permit.

(c) *Work requiring permit.* A permit shall be required for planting, spraying, pruning, cutting above ground, removing or otherwise disturbing any tree on any street, park or other public place.

(d) *Standards for issuance; expiration; conditions.* The tree warden shall issue any permit provided for herein if the proposed method and workmanship shall be of a satisfactory nature and the project shall be consistent with this chapter. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed in the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(e) *Notification of tree warden upon completion of work.* The tree warden shall be notified by the bearer of the permit upon satisfactory completion of designated work.

(f) *Tree planting.*

(1) The application required herein shall state the number of trees to be set out or planted on public places; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the tree warden shall find reasonably necessary to a fair determination of whether a permit should be issued.

(2) The tree warden shall have the right to make the final determination as to location, species, cultivar or variety of each tree and the method of planting before issuing said permit.

(g) *Tree maintenance.* The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the tree warden shall find reasonably necessary to a fair determination of whether a permit should be issued.

(h) *Removal of trees.*

(1) Wherever it is necessary to remove a tree in connection with the paving of a sidewalk, or the widening of the portion of a street or highway, the city shall replant the tree or replace it. This requirement will be satisfied if an equivalent number of trees of the same size and species as provided in the Arboricultural Specifications and Standards of Practice are planted within one-quarter mile of the original tree location.

- (2) No person shall remove a public tree for the purpose of construction or for any other reason without first filing an application and procuring a permit from the tree warden. The tree warden may require replacement of a removed tree as a condition to the issuance of a permit. Such replacement shall meet the standards of size, species and placement as provided for in a permit issued by the tree warden. The person or property owner shall bear the cost of removal and replacement of all trees removed.

(Code 1971, § 25-10)

Sec. 78-10. Requirements for businesses removing or maintaining trees on public property.

To protect the public, the city shall require any person who removes or maintains trees on public property as a business to be:

- (1) Properly licensed to perform such work.
- (2) Certified by the state or any other agency that regulates arboricultural practices.
- (3) Covered by worker's compensation insurance to the extent required by state law and public liability and personal property insurance in the minimum amounts hereinafter mentioned adequate to cover and save harmless the city and its agents from all suits, claims or actions of every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly, by the conduct of the work contemplated, or by acts of strangers, or any conditions due to the elements or any defects or insufficiencies in any method, material, ways, machinery, equipment or apparatus used in connection with the work. Public liability insurance with limits of not less than \$500,000.00 shall be carried.
- (4) Bonded.
- (5) Insured (medical).

(Code 1971, § 25-11)

Sec. 78-11. Interference with tree warden; appeals.

(a) No person shall hinder, prevent, delay or interfere with the tree warden or any of his/her assistants while engaged in carrying out the implementation of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(b) Any adjustment of the standards required by this chapter or an appeal of a decision of the tree warden shall be taken to the tree commission. The tree commission, upon receipt of such request, on forms provided by the tree warden, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being requested, the reasons such adjustments or requirements are being requested, and the reasons such adjustments are warranted, and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. The tree commission may approve, modify or deny the requested adjustment based upon protection of public interest, preservation of the intent of this chapter, and possible unreasonable and unnecessary hardships

involved in the case.

(c) The commission shall act on the application as expeditiously as possible and shall notify the applicant in writing within five days of the action taken.

(Code 1971, § 25-12)

Sec. 78-12. Violations; penalty.

Any person violating or failing to comply with any of the provisions of this chapter shall be subject to court action, and upon conviction thereof shall be punishable as provided in section 1-4 and/or shall be subject to a fine for the value of the trees removed or damaged. In addition, the person shall replace the tree and/or repair damage with a size and species permitted by the tree warden. Each tree affected by noncompliance with this chapter shall constitute a separate violation. Violation of this chapter shall be the basis of withholding a final inspection permit until such violation is corrected to the satisfaction of the tree warden and/or tree commission.

(Code 1971, § 25-13)

Sec. 78-13. Warwick Tree Trust.

(a) *Establishment and purpose.* The city council hereby recognizes the importance that the planting of trees along city streets and in other public places has on the environmental and aesthetic vitality of the city. The city council also recognizes there is a high level of citizen interest and participation on this subject, by citizens voluntarily planting and maintaining trees along city streets and other public places. Therefore, there is hereby established a tree trust in the City of Warwick, the funds of which shall be held in a segregated account to be utilized for the purpose of purchasing, planting and maintaining trees planted along public streets and other public places as determined by the city tree commission.

(b) *Donation and custody of funds.* Any person, firm, corporation or other organization may make donations to sponsor the purchase, planting and/or maintenance of trees along city streets or other public places. The landscape architecture office within the planning department shall be the custodian of the fund and all funds shall be remitted to the treasurer and shall be held in a separate account entitled "tree trust". Budgeting and expenditure of funds shall be in the same manner as all municipal expenditures under the charter and ordinances of the City of Warwick.

(c) *Sponsor and memorial plaques.* A sponsor may donate a specific sum of money for the purchase of a single tree or group of trees to be planted with the approval of the tree commission, or may make a general donation to the tree trust account to carry out the purposes of this chapter. Provision shall be made for the placement of sponsor and/or memorial plaques which may be purchased by a sponsor, the funds for which shall be remitted to the tree trust account. The tree commission shall establish guidelines for the type, size and placement of sponsor and memorial plaques.

(d) *Use and expenditure of funds.* The tree commission shall establish guidelines for the use of funds donated to the tree trust to carry out the provisions of this chapter. Any purchase of trees, materials, supplies and services utilizing funds from the tree trust account shall be in the same manner as other city purchases are made under the municipal purchasing laws of the State of Rhode Island, and the charter and ordinances of the City of Warwick.

(Ord. No. O-06-15, § I, 5-8-06)