

CODE OF ORDINANCES
Chapter 80 - PARKS, OPEN SPACE, AND GOLF
ARTICLE VII. - TREES

Inasmuch as there already exists such a section, at the editor's discretion, said provisions have been redesignated as § 80-94.1

Secs. 80-94.2—80-94.4. - Reserved.

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⁽⁷³⁾ **Editor's note**— Section 25 of Ord. No. 2006-22, adopted June 6, 2006, recodified §§ 116-11—116-24 as §§ 80-94—80-107.

⁽⁷³⁾ **Cross reference**— Landscaping requirements and guidelines, § 26-19-5.

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Sec. 80-94.5. - Purpose.

The city council hereby finds and declares that trees are a vital part of the community because they provide oxygen, control pollution, store water, prevent soil erosion, provide shade and wind breaks, shelter wildlife, add beauty and provide living natural history. The city council intends to promote and protect the welfare of trees within the community by providing regulations for planting, maintaining and removing certain trees within the city limits of Lafayette subject to existing specifications and standards for landscaping, tree planting, maintenance and tree removal set forth elsewhere in the Code. The city council further declares that the policy of the city should be to encourage the planting of trees for the beautification and benefit of the community now and for the future.

(Ord. No. 98-13, § 1, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Editor's note— Section 25 of Ord. No. 2006-22, recodified § 116-11 as § 80-94. Inasmuch as there already exists a § 80-94, said provisions have been redesignated as § 80-94.5, to avoid duplication of numbers.

Sec. 80-95. - Applicability.

Nothing contained herein is intended to nor shall it be interpreted to void, nullify or obviate other

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provisions of the code including any provision of the development and zoning code. The provisions of this chapter are to be used either in conjunction with or are subordinate to the standards, specifications and provisions pertaining to landscaping and the planting, maintenance and removal of trees contained therein.

(Ord. No. 98-13, § 2, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-96. - Tree board; creation.

Pursuant to Section 4.13 of the Charter, the "tree board" is hereby created for the purposes stated in this chapter.

(Ord. No. 98-13, § 3, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-97. - Same—Purposes.

The tree board is created to serve solely in an advisory capacity to make recommendations to the city council on matters related to trees and coordinate the following activities:

- (a) Examine and review the needs of the city for tree preservation and make recommendations to city council, the planning commission and other departments of the city with respect to rules, regulations and policies governing the care, proliferation and protection of trees.
- (b) Develop, implement and coordinate tree preservation activities through outreach, education, training and technical assistance programs.
- (c) Work with local nurseries and other tree providers to educate and train citizens on the planting, care and proliferation of trees. Tree education programs should emphasize trees which are recommended for planting within the city and identify those trees which are unlawful to plant pursuant to section 26-19-5
- (d) Collect, evaluate and distribute information related to tree education and preservation including the development of a public information document educating citizens about the provisions contained in this chapter and the development and zoning code.
- (e) Prepare an annual report for city council describing the various programs related to the tree board. The annual report will include data on the number of participants in the voluntary landmark tree program.
- (f) Perform all other duties assigned to them by city council.

(Ord. No. 98-13, § 4, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-98. - Same—Organization.

(a) The tree board shall be composed of eight (8) members to be appointed by city council no later than April 24, 1998. The members shall include the five (5) members of the open space advisory committee whose terms shall be concurrent with their term on the open space advisory committee. Three (3) members shall be ex officio members and shall include one (1) member of city council, one (1) member of the planning commission and the city administrator.

(b) The tree board shall annually elect from its membership a chairman and such other officers as it

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may deem necessary during its first meeting of each calendar year and adopt such rules as may be necessary to conduct its business. In the event a vacancy occurs, the city council shall appoint a new member to serve for the remainder of the vacated term in the manner prescribed for appointments to the open space advisory committee.

(c) All members of the tree board shall be at least eighteen (18) years of age, residents of the city for at least one (1) year and qualified registered voters. Members will serve without compensation.

(Ord. No. 98-13, § 5, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-99. - City forester.

The director of parks, open space and golf shall act as the city forester. The city forester is appointed to administer and implement the provisions contained in this chapter. Duties and responsibilities of the city forester will include, but not be limited to:

- (a) The review of voluntary requests from property owners to have their tree designated as a landmark tree.
- (b) Reserved.
- (c) Undergo training sufficient to carry out his/her duties as the city forester.
- (d) Meet with the tree board each year prior to Arbor Day.

(Ord. No. 98-13, § 6, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06; Ord. No. 2007-38, § 9, 9-4-07)

Sec. 80-100. - Voluntary landmark tree program.

(a) Any property owner desiring to do so may request in writing that a qualified tree located on such property owner's property be designated by the city forester as a "landmark tree." Any tree which meets one or more of the following criteria may be designated by the city forester as a landmark tree:

- (1) The tree is at least thirty (30) years old;
- (2) The tree has a circumference of ten (10) feet or more when measured three (3) feet above its base; or
- (3) The city forester in his discretion considers the tree rare or the tree is associated with a historical event.

(b) Any property owner whose tree is designated as a landmark tree shall record, at the property owner's expense, the document provided by the city forester evidencing such designation in the office of the clerk and recorder of Boulder County. The designation of a tree as a landmark tree shall constitute a restrictive covenant that shall be appurtenant to and shall run with the property.

(c) The city forester shall designate any tree located on city property as a landmark tree if it meets the criteria of subsection (a).

(Ord. No. 98-13, § 7, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-101. - Removal of a landmark tree; replacement.

(a) Except as provided in subsection (b), no person may remove or alter the location of a landmark tree without first obtaining a permit free of charge from the city forester. The city forester shall give such permit under any one of the following conditions:

- (1) The landmark tree is diseased or otherwise poses a threat to other trees, persons or property;
- (2) The property owner has shown cause sufficient to demonstrate that removal is necessary to protect the safety and welfare of citizens or their property; or
- (3) The property owner agrees to plant one replacement tree either on the owner's property or on city property identified by the city forester. The replacement tree must have a circumference equal to at least one-tenth the circumference of the landmark tree removed provided, however, that such replacement tree meets the minimum plant size requirements of section 26-19-5(e) but not to exceed four (4) inch caliper measured six (6) inches above the ground. In lieu of planting replacement trees, the property owner may make a donation to the tree fund equal to the cost of the replacement trees that would otherwise be required by this section.

(b) Landmark trees located on city property may be removed by the city forester or his designee without a permit.

(c) A property owner who removes a landmark tree without first obtaining a permit shall make a donation to the tree fund in an amount equal to two (2) times the cost of the replacement tree that would otherwise be required under this section. Payment shall be made to the city clerk within thirty (30) days of removing the landmark tree. In the event payment is not made, the city administrator may elect to have such costs become a lien against the subject property at such time as the city discovers the landmark tree is removed and the city administrator or designee certifies the costs to the office of the county treasurer for collection in the same manner as general property taxes are collected. A notice of the lien shall be recorded in the office of the Boulder County clerk and recorder.

(Ord. No. 98-13, § 8, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-102. - Diseased or damaged trees.

The city forester shall serve written notice to the property owner of record for any property upon which the city forester discovers a tree infected with any destructive or communicable disease, insect or other pestilence which, in the sole discretion of the city forester, endangers the growth or health of other trees, or threatens to spread disease or insect infestations. Said notice shall require the property owner to eradicate, remove or otherwise control the complained of condition or request a hearing before the city administrator for the purpose of showing cause why the city forester's decision should be overturned within thirty (30) days from the date of the notice.

(Ord. No. 98-13, § 9, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-103. - Hearing.

(a) If the property owner requests a hearing within the time specified in section 80-102, the city administrator shall set the matter for hearing within ten (10) days and send notice of such hearing to the property owner. The property owner shall appear before the city administrator or a designee thereof for the purposes of presenting evidence as to why the city forester's decision should be overturned.

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(b) At the hearing referred to above, the city administrator or designee shall hear such statements and consider such evidence as the city forester, the property owner, or any witness shall offer relative to the complained of condition. The city administrator or designee shall make findings of fact from the statements and evidence offered as to whether the complained of condition exists and if so, what is the appropriate remedy. If the city administrator or designee determines that certain remedial action is warranted, the city administrator or designee shall issue an order based on the findings of fact made pursuant herewith commanding such remedial action be taken by the owner within thirty (30) days from the hearing. If the property owner does not comply with such order, the city may undertake such remedial action at the expense of the property owner.

(Ord. No. 98-13, § 10, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-104. - Appeal.

(a) The property owner shall have the right to request in writing an appeal of the decision of the city administrator or designee to the city council within three (3) days of the date of the written decision. Failure of a property owner to appeal said order constitutes a waiver by such property owner of any right the property owner may otherwise have to contest the city's right to require remedial action on such property and charge the resulting costs against the property owner's property.

(b) The city council shall hold a hearing on the appeal at its next meeting but not later than twenty-one (21) calendar days from the date of the written request for appeal. At the appeal hearing, the city council shall hear such statements and consider such evidence as the city forester, city administrator, the property owner, or any witness shall offer relative to the complained of condition. The city council shall make findings of fact from the statements and evidence offered as to whether the provisions of this chapter were violated and if so, what is the appropriate remedy. If the city council determines that certain remedial action is warranted, the city council shall issue an order based on the findings of fact made pursuant herewith commanding the owner to undertake such remedial action.

(Ord. No. 98-13, § 11, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-105. - Remedial action.

(a) If the complained of condition has not been removed within the time stated in the city forester's notice, the order of the city administrator or the order of the city council, the city administrator or designee may remove the tree or take such other remedial action as is stated in the notice or order.

(b) The property owner shall be charged with all administrative costs and expenses incurred in conjunction with the remedial action. Such administrative costs shall include the cost of said remedial action including without limitation, inspection fees, legal expenses and other expenses as ascertained by the city administrator, or designee, which are the result of undertaking remedial action.

(Ord. No. 98-13, § 12, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-106. - Collection of costs.

(a) All costs incurred by the city under this chapter may be assessed against the subject property. If the city administrator or designee thereof determines to assess costs against the subject property, the city administrator or designee shall prepare a statement enumerating all such costs to be assessed. A copy of the city administrator's determination shall be served upon the property owner by first class mail.

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(b) In the event payment of the assessment pursuant to subsection (a) is not made to the city clerk within thirty (30) days after a copy of the city administrator's determination is served, the city administrator may elect to have the assessed amount become a lien against the subject property as of the date the city administrator or designee certifies the assessed costs to the office of the county treasurer for collection in the same manner as general property taxes are collected. A notice of the lien shall be recorded in the office of the Boulder County clerk and recorder.

(Ord. No. 98-13, § 13, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)

Sec. 80-107. - Payment and assessment of costs.

(a) The amount of assessment for the costs provided for under section 80-106 or 80-101 of this chapter may be paid to the city treasurer at any time prior to certification of the same by the city administrator or designee to the office of the county treasurer, but thereafter payments shall be made only to the office of county treasurer.

(b) Upon receipt of the assessment roll under this chapter, the county treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof.

(Ord. No. 98-13, § 14, 3-3-98; Ord. No. 2006-22, § 25, 6-6-06)