

## Chapter 22 VEGETATION\*

\*Cross reference(s)--Buildings and building regulations, ch. 6; environment, ch. 9; streets, sidewalks and other public places, ch. 16; subdivisions, ch. 17; zoning, ch. 23.

### ARTICLE I. IN GENERAL

#### Sec. 22-1. Purpose, intent and applicability of chapter.

(a) The purpose and intent of this chapter is to promote the health, safety and public welfare of the inhabitants of the city, and consistent with forestry policy and practice for urban areas promulgated by the state division of forestry, to provide a mechanism for the management of trees and other woody vegetation within the city. This chapter is based on the premise that trees are a part of our heritage and our future, and that they are an essential part of the quality of life within our city.

(b) The standards of this chapter are hereby established in order to create greater human comfort by providing shade; to cool the air and otherwise temper the effects of summer heat; to restore oxygen to the atmosphere; to reduce glare and noise levels; to promote clean air quality by increasing dust filtration; to improve surface drainage and minimize flooding; to ensure that activities in one area do not adversely affect activities within adjacent areas; to emphasize the importance of trees as a visual screen; to beautify and enhance improved and undeveloped land; to maintain the ambiance of the city; and to ensure that tree removal does not reduce property values, all of which aid in protecting the health, safety and general welfare of the city.

(c) The policy of the city with respect to trees as contained in this

section, and which is expected to be furthered by the provisions of this chapter, is deemed of significant importance; and, in considering applications relative to development of properties, the various boards and commissions of the city shall take such policy into consideration in all instances. (Code 1986, § 23-1)

#### Sec. 22-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Crownsread* means the distance from the ends of the branches on one side of the tree, through the trunk, to the ends of the branches on the outermost branches on the other side.

*Diameter breast height (DBH)* means the trunk diameter measured at four feet from ground level.

*Front yard* means a yard extending across the front of a lot between the side lot lines and being the minimum allowed horizontal distance between the street and the front building line. On corner lots or double frontage lots, the yards adjacent to both streets are front yards.

*Germantown heritage tree* means any tree of significant age, size or history which constitutes a unique asset to the community and which, upon application by the owner, is designated by the board of mayor and aldermen as a Germantown heritage tree.

*Large trees* means trees which mature at heights greater than 50 feet.

*Line clearance* means the removal of limbs and branches growing within a set distance from electrical distributor lines.

*Medium trees* means trees which will mature at a height of 25 to 50 feet.

*Official city tree* means the Quercus Phellos, Willow Oak.

*Private tree* means a tree growing in an area that is not owned by a governmental entity.

*Pruning* means the removal of branches according to the National Arborists' Association Pruning Standards.

*Public tree* means a tree growing on land owned by a unit of government (federal, state, county, city or any agency thereof).

*Small trees* means trees which will mature at a height of less than 25 feet.

*Tree* means a woody plant with a single trunk or multiple trunk capable of growing to a height of 15 feet or more.

(Code 1986, § 23-2)

Cross reference(s)--Definitions generally, § 1-2.

**Sec. 22-3. Scope of chapter.**

(a) All the provisions of this chapter shall be applicable to new commercial and residential development projects for which development approval is sought from the city subsequent to the effective date of Ordinance No. 1992-16.

(b) The provisions of section 22-86 shall be applicable to all properties within the city on the effective date of Ordinance No. 1992-16.

(Code 1986, § 23-3)

**Sec. 22-4. Referenced standards.**

The standards and regulations contained in the city zoning ordinances, the Germantown Design Review Manual and ordinances relating to the same, and those Standards of the National Arborists' Association for Pruning, Tree Protection and Tree Planting that are in effect on July 1, 1998, which are hereby adopted by reference, are an integral part of this chapter. Where provisions of this chapter conflict with a standard of the National Arborists' Association, the Design Review Manual or other ordinances or regulations of the city, the most stringent provision shall be

enforced. The provisions of this chapter are considered minimum requirements.

(Code 1986, § 23-4)

Secs. 22-5--22-25. Reserved.

**ARTICLE II. ARBOR BOARD\***

\*Cross reference(s)--Boards and commissions, § 2-126 et seq.

**Sec. 22-26. Creation.**

There is hereby created an arbor board (board) for the city, which shall consist of five members who shall be appointed by the board of mayor and aldermen from membership of the city beautification commission. Members shall serve without compensation.

(Code 1986, § 23-16(a))

**Sec. 22-27. Term of office.**

The term of the five members who shall constitute the city arbor board shall be initially the remainder of the calendar year in which this chapter becomes effective (1992); and therefrom, the terms of such members shall be one year, beginning January 1 of each calendar year. If a vacancy shall occur during the term of any member, his successor shall be appointed by the board of mayor and aldermen for the unexpired portion of the term.

(Code 1986, § 23-16(b))

**Sec. 22-28. Duties and responsibilities.**

It shall be the responsibility of the board, in conjunction with the parks and recreation department, to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the board of mayor and aldermen and upon their acceptance and approval,

shall constitute the official comprehensive city tree plan. When requested by the board of mayor and aldermen, the board shall consider, investigate, make findings, report and recommend upon any special matter of questions coming within the scope of its work.

(Code 1986, § 23-16(c))

**Sec. 22-29. Arbor day.**

The board shall designate, on an annual basis, a day to be celebrated as Arbor Day and plan and carry out appropriate ceremonies.

(Code 1986, § 23-16(d))

**Sec. 22-30. Operation.**

The board shall choose its own officers, make its own rules and regulations and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Code 1986, § 23-16(e))

**Sec. 22-31. Meetings.**

Meetings shall be held at least quarterly or at the call of the chairman.

(Code 1986, § 23-16(f))

Secs. 22-32--22-50. Reserved.

**ARTICLE III. TREE PROTECTION AND GRADING**

**DIVISION 1. GENERALLY**

Secs. 22-51--22-65. Reserved.

**DIVISION 2. ADMINISTRATION**

**Sec. 22-66. Enforcement.**

It shall be the duty of the department of community development to administer and enforce the provisions of this chapter. The department of community development shall have the power to make inspections of properties necessary to carry out their duties.

(Code 1986, § 23-17(a))

**Sec. 22-67. Appeals.**

Under this chapter, any dissatisfied applicant may appeal, in writing, to the planning commission, any decision

made by the director of community development or other city official under the provisions of this division within 30 days of the decision being rendered, specifying the grounds on which the appeal is made. The applicant may appeal the decision of the planning commission to the board of mayor and aldermen.

(Code 1986, § 23-17(b))

**Sec. 22-68. Violations.**

A violation of this chapter shall be a misdemeanor, punishable as provided for in section 1-10, provided that a violation which is of a continuing nature shall be deemed to occur on each separate day that violation continues.

Each such violation shall constitute a separate offense on such several days.

(Code 1986, § 23-17(c))

Secs. 22-69--22-85. Reserved.

**DIVISION 3. PERMITS**

**Sec. 22-86. General.**

It shall be unlawful for any person to remove any tree (except as permitted under this division) or to commence any grading, earth-moving, changing of elevation of property without first having applied for and received a permit in accordance with the provisions of this division.

(Code 1986, § 23-5)

**Sec. 22-87. When required.**

(a) A permit shall be required for all grading, earth-moving, changing of elevation of property or removal of 15 percent or more of live trees ten inches diameter breast height (DBH) or greater in diameter; provided, however, that no such permit shall be required incidental to construction on a parcel of land one acre or less in size for the purpose of constructing a single-family home, accessory building or private drive.

(b) The requirements contained in a nonsingle-family detached residential

development plan, previously approved by the city, including established drainage design, tree planting and preservation requirements, and all other landscaping requirements, shall continue in perpetuity or until an amendment is duly authorized.

(Code 1986, § 23-5.1)

**Sec. 22-88. Public trees.**

It shall be unlawful for any person to deface, injure, destroy, remove, or cause to be removed, any public tree, without first having obtained a permit as required by this division.

(Code 1986, § 23-5.2)

**Sec. 22-89. Private trees.**

It shall be unlawful for any person to deface, injure, destroy, remove or cause to be removed, any private tree which has been designated as a Germantown heritage tree without first having obtained a permit as required by this division.

(Code 1986, § 23-5.3)

**Sec. 22-90. Application.**

(a) *Development plan required.* Prior to the issuance of a permit for grading and/or tree removal, except as indicated in section 22-87(a), an applicant must submit a development plan to the planning commission with a written statement of the proposed work to be accomplished and a site plan which shall include:

(1) Location of trees.

a. *Single-family residential development.* Site plans for a single-family residential development must provide the species, size at diameter breast height, and location of existing trees with a DBH of ten inches or greater, which are located within an area to be disturbed by construction. Such trees are to be designated according to whether they are to be preserved or removed.

b. *Commercial, office, multifamily or institutional.* Site plans for a nonsingle-family residential development must provide the species, size at diameter breast height and location of all trees, with a DBH of ten inches or greater, proposed to be removed and proposed to be preserved on the site.

(2) The nature and extent of the proposed grading, earth-moving or change in elevation. The grading plan shall include existing and proposed contours at two-foot intervals and a drainage design plan, complete with calculations supporting the design.

(3) Plans for controlling on-site generated sedimentation, erosion and runoff.

(4) Tree protection measures consistent with the requirements of this chapter.

(5) The number, species, size (DBH) and location of additional trees that will be planted on the site.

(b) *Tree removal unrelated to development.* Permits for removal of trees ten inches DBH or larger from property which is not a part of a previously approved development plan and which removal does not otherwise require a review of the planning commission or design review commission, may be authorized by either commission, through its designee, in circumstances when the issuance of such a permit is found not to be inconsistent with the purpose and intent of this section. Conditions under which a permit may be issued include, but will not be limited to, the following:

(1) The tree is dead or dying;

(2) The tree is diseased;

(3) The tree is damaged or injured to the extent that it is likely to die or become diseased;

- (4) The removal of the tree will enhance the health of the remaining trees;
- (5) The removal of the tree is consistent with good forestry practices;
- (6) Removal of the tree is consistent with and will encourage energy conservation practices; and/or
- (7) Removal of the tree is necessary for the safety of the general public.

(Code 1986, § 23-6)

Secs. 22-91--22-105. Reserved.

#### **DIVISION 4. TREE PRESERVATION AND PLANTING REQUIREMENTS**

##### **Sec. 22-106. General.**

Trees shall be preserved and planted on all properties proposed to be developed within the city in accordance with the requirements of this division.

(Code 1986, § 23-7)

##### **Sec. 22-107. Commercial, office, multifamily and institutional properties.**

(a) *Compliance with other city standards/ordinances.* Trees shall be preserved and planted in accordance with the design standards contained in the zoning chapter and the design guidelines contained in the Design Review Manual, the provisions of both, as the same may change from time to time, which are hereby adopted by reference.

(b) *Effect of development plan.* The tree planting and tree protection requirements contained in an approved development plan shall continue in perpetuity or until an amendment to the plan is duly authorized.

(c) *Replacement requirements/dedication of off-site trees.* Any tree removed from an approved development shall be replaced at a ratio equal to the number of inches contained in the diameter of the tree removed. For

example, if a 24-inch tree is removed, eight trees with a DBH of three inches will be required to replace the tree which was removed. If the owner cannot accommodate the replanting of such replacement trees on the subject tract, the owner shall be required to dedicate the required replacement trees to a public property approved by the parks and recreation department.

(d) *Minimum number of trees required.* Within all commercial, office or multifamily and institutional developments, there shall be a minimum of one tree for each 800 square feet of required open space area.

(e) *Design review commission requirements.* Notwithstanding the other provisions of this section, the design review commission may require more or fewer trees to be planted, based on peculiar conditions of a specific development.

(Code 1986, § 23-7.1)

##### **Sec. 22-108. Single-family residential; minimum number of trees required.**

Within the required front yard of property to be used for single-family residential use, there shall be required a minimum of two trees with a DBH of two inches minimum, which shall be installed and inspected prior to final inspection and approval of the residence.

(Code 1986, § 23-7.2)

##### **Sec. 22-109. Regulations for both residential and commercial.**

The remaining provisions of this division shall apply to both residential and commercial properties.

(Code 1986, § 23-7.3)

##### **Sec. 22-110. Protection measures.**

All trees on public or private property that are designated for preservation shall be guarded by a four-foot high barrier that designates the enclosed area as a

tree protection zone. This enclosure shall extend equal to the crown spread of the tree (at a minimum). Neither building materials, waste materials, excess dirt or construction debris, nor any equipment or vehicles shall be allowed within this protection zone.

(Code 1986, § 23-7.4)

**Sec. 22-111. Marking of trees.**

Prior to any tree removal, or commencement of construction on a site, and during the plan approval process, the following uniform colored ribbon system shall be used:

- (1) Red for trees to be saved; or
- (2) Blue for trees to be removed.

(Code 1986, § 23-7.5)

**Sec. 22-112. Quality of plant material; minimum size required.**

Trees scheduled for planting shall be quality specimens whose physical site requirements are compatible with the intended development. Unless otherwise approved by the planning commission or design review commission as applicable, minimum tree size at the time of planting shall be three inches DBH for large and two inches DBH for medium trees. Small trees shall be a minimum of eight feet in height. No DBH is prescribed for small trees.

(Code 1986, § 23-7.6)

**Sec. 22-113. Requirements considered minimums.**

The standards contained in this division are considered minimum standards. In addition to the requirements contained in this division, the city may require additional trees to be planted in order to accomplish the objectives contained in the Design Review Manual, the city tree plan or the zoning chapter.

(Code 1986, § 23-7.7)

**Sec. 22-114. Exceptions to encourage energy conservation.**

The city may approve an exception to any provision contained in this division when it can be demonstrated that such exception is in keeping with energy conservation practices and that such measures are not inconsistent with the purpose and intent of this chapter. In cases where the required number of trees cannot be planted on-site and accomplish the desired energy conservation measures, the owner may be required to dedicate trees to public property in accordance with section 22-107(c).

(Code 1986, § 23-8)

Secs. 22-115--22-130. Reserved.

**DIVISION 5. CITY TREE PLAN**

**Sec. 22-131. Applicability of division provisions.**

The provisions of this division shall apply only to trees located on public property.

(Code 1986, ch. 23, art. IV)

**Sec. 22-132. Purpose and intent of division.**

(a) The purpose and intent of the city tree plan is to prepare and implement a plan which will include the suggested planting, maintenance and removal procedures for trees on public property in the city.

(b) The standards of this division are hereby established in order to promote the health, safety and public welfare of the inhabitants of the city; to reflect a social and environmental responsibility to reconcile the public's needs and the natural environment with minimal disruption to the natural system; and to serve as a reference for overall coordination and enforcement purposes.

(Code 1986, § 23-9)

**Sec. 22-133. Plan requires approval; list of endangered, protected trees.**

(a) The city tree plan shall require approval by the board of mayor and aldermen after review by the planning commission. Thereafter, all significant changes to the approved plan must be approved by the board of mayor and aldermen after review by the planning commission. Minor changes to the approved plan, which do not affect the goals of the plan, may be approved by the director of parks and recreation. The parks and recreation commission shall review and update the city tree plan on a periodic basis as conditions warrant.

(b) The department of parks and recreation shall maintain a list of trees designated as a rare or endangered species by an agency for the federal government, and which is protected by the state or the laws of the United States. (Code 1986, § 23-10)

**Sec. 22-134. Tree maintenance.**

(a) The practice of tree topping is prohibited on all public trees except that utility lines may be protected from tree growth by branch removal at branch or trunk junctures.

(b) Tree pruning shall be performed in a manner that protects the public. Public and private trees growing along streets and sidewalks must be pruned such that the area above a sidewalk surface is clear of branches for a minimum of **eight feet** and above a street surface for a minimum of **12 feet**. Tree branches shall not obstruct the view from the roadway of any street sign or stop sign. No structure, planting or object of natural growth shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the intersection, along each right-of-way line. A structure, planting or object of

natural growth, excluding trees, between the heights of 30 inches to 96 inches, shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb. Private trees shall be kept pruned of any dead, diseased or structurally damaged limbs or branches which could fall into the right-of-way or onto public property and thereby constitute a menace to public safety. (Code 1986, § 23-11)

**Sec. 22-135. Removal of Dead Trees on Public Property.**

Dead, diseased or structurally damaged public trees that pose a safety or health risk to the public or to other trees shall be removed by the parks and recreation department in a timely manner. The parks and recreation department shall evaluate the dead, diseased or structurally damaged tree as to the degree of hazard. This evaluation shall be made by using the Standard Tree Condition Evaluation Guide, International Society of Arboriculture. The results and an accompanying recommendation will be forwarded to the director of parks and recreation for action. (Code 1986, § 23-12)

**Sec. 22-136 Removal of dead trees on private property.**

(a) *General provisions:* The removal of dead trees within the city is deemed to sometimes be necessary to protect the safety of persons and property, to remove the risk of damage to over-head lines and obstruction of streets and to enhance the aesthetics of the city.

(1) When the city determines that a dead tree should be removed, it shall provide

written notice to the owner of the property upon which the tree is situated. Such notice shall be mailed to the person(s) shown on the records of the Shelby County Tax Assessor as the owner(s) of the property by certified mail, return receipt requested.

- (2) Notice sent by the city as aforesaid shall advise the owner of the property to remove the dead tree not later than 30 days from the date of mailing of the notice except as provided in subsection (a)(3) of this section.
- (3) In the event that the city determines that the dead tree poses an imminent safety hazard to the general public or adjacent properties, the notice aforesaid may establish a time requirement for removal shorter than 30 days.

*(b) Failure of property owners to remove dead trees:*

- (1) If a property owners fails to remove a dead tree within the time specified in the written notice from the city, such shall constitute a violation of this division and shall be punishable by a fine of not more than \$500.00 per day.
- (2) In addition to the fine provided in the immediately aforesaid

section, if a property owner fails to remove a dead tree within the time specified in the written notice from the city, and if the city determines that the dead tree constitutes an imminent threat to the property of others or to the general public or could result in damage to overhead lines or obstruction of streets, the city shall have the right to enter upon the property and remove the tree, and all costs incurred by the city in such regard shall be due and payable from the property owner(s) to the city upon demand, and, if not paid, the city shall have the right to file a notice of lien in the Register's Office of Shelby County, Tennessee and proceed to collect such costs and enforce such lien in accordance with the provision of law.

(Ord. No.2000-19, 1-22-01)

**Sec. 22-137. Trees of historic or special significance.**

A tree of significant age, size or history can constitute a unique asset to the community. The board of mayor and aldermen, upon the recommendation of the parks and recreation department, can designate a unique specimen as a Germantown heritage tree. A public tree so designated will be given special protection and maintenance, and special recognition as the situation warrants.

(Code 1986, § 23-13)

**Sec. 22-138. Tree planting.**

All trees to be planted on public property shall conform to the following requirements:

(1) *Source of supply.*

a. All plant materials supplied shall conform to the edition of the American Standard for Nursery Stock, as approved by the American National Standards Institute, Inc., that is in effect on July 1, 1998.

b. All trees may be inspected and approved by the director of parks and recreation, or his duly authorized representative, at the source of supply prior to digging. All materials are to be of the highest quality.

c. All plant materials shall have been grown under climatic conditions similar to those in the city.

d. All plants shall be typical of their species or variety and shall have a sufficient normal growth of spread and height. One-sided plants or plants taken from tightly planted nursery rows will also be rejected. They shall be sound, healthy and vigorous, well-branched and densely foliated when in leaf. They shall be free of disease, insect pests and larvae. They shall have healthy, well-developed root systems.

(2) *Inspection.*

a. All plant material may be inspected and approved by the director of parks and recreation, or his duly authorized representative, prior to digging. Inspection and approval by the director of parks and recreation, or his duly authorized representative, at the source of supply does not abdicate the right of the director of parks and recreation to reject any materials after they have been delivered to the site. A final determination of acceptability of the material will be made at the time of

delivery. The city will notify the nursery either by phone or in writing no more than five days after delivery of all materials not acceptable to the director of parks and recreation.

b. Plant material certificates of inspection, where required by federal, state or other governmental agencies, are to accompany all shipments.

(3) *Tree planting.*

a. All trees planted on public property shall be of a kind (species) referenced on the city's recommended tree list and tree plan.

b. To curtail the spread of disease or insect infestation in a plant species, no more than 70 percent of the trees required to be planted on a site shall be of one genus. In addition, when more than 20 trees are required on a site, no more than 35 percent of the required trees shall be of a single species.

c. Trees should be placed in a configuration that promotes energy conservation in buildings, through the moderating effects of shade and the manipulation of air currents provided by the strategic location of trees.

d. Tree planting operations should be scheduled to complete the work within a time which is advantageous to the survival of the tree.

(4) *Tree spacing.* Trees shall be planted according to the following spacing requirements:

a. **Small trees** which have an ultimate height of 25 feet and 15-foot to 25-foot spread shall be planted 15 feet to 20 feet apart, as measured from the center of the tree trunk.

b. **Medium trees** which have an ultimate height of 25 to 50 feet and 30-foot to 40-foot spread shall be planted 25 feet to 30 feet apart, as measured from the center of the tree trunk.

c. **Large trees** which have an ultimate height greater than 50 feet and over 40-foot spread shall be planted 35 feet to 40 feet apart, as measured from the center of the tree trunk.

d. A proposal to vary from these spacing requirements by grouping trees to achieve a special landscape effect may be approved by the department of parks and recreation.

(5) *Tree size.* Trees shall be planted according to the following size requirements: Except when authorized by the parks and recreation department, all trees capable of reaching a mature height of greater than 50 feet (large trees) when planted on public property shall be at least three inches DBH at the time of planting. Medium trees shall be at least three inches DBH at the time of planting. Small trees shall be at least eight feet in height. The growing stock of approved plant nurseries will be exempt from this subsection (5).

(6) *Tree location.* Trees shall be planted according to the following location requirements:

a. No medium or large trees shall be planted within 20 feet of any overhead utility wire. Medium or large trees shall be planted an appropriate distance from underground utilities.

b. No tree shall be planted closer than ten feet to a fire hydrant, utility pole or streetlight. No tree shall be planted within 15 feet of a driveway/street intersection, as measured parallel to the street, or 50 feet from a street/street intersection, as measured parallel to the street, the point of intersection of the curblines extended.

c. Trees planted adjacent to sidewalks or curbs should not be planted closer to either structure than three feet for small trees, five feet for medium trees and seven feet for large trees.

d. Trees that are to be planted shall be selected from species suitable for the proposed site conditions. For example, if the location for the tree is to be wet, the tree must be able to withstand wet conditions.

(Code 1986, § 23-14)

**Sec. 22-139. Official city tree.**

It is hereby decreed that the Quercus Phellos, Willow Oak, shall be the official city tree. This selection is made because of its history, superior form and shape, and its strength of structure and life span in our geographic area. While it is not recommended that this species be selected over other species in planting on public or private property, it is recommended that the tree be recognized as a symbol of the city community.

(Code 1986, § 23-15)

Secs. 22-139--22-160. Reserved.

**ARTICLE IV. WEEDS, RANK GRASS AND NOXIOUS GROWTH\***

\*Cross reference(s)--Environment, ch. 9. State law reference(s)--Authority, T.C.A. § 6-54-113.

**Sec. 22-161. Defined.**

Weeds and noxious growth, as referred to in this article, shall not be interpreted to require the property owner to cut down trees, shrubs or crops on his property. Weeds and noxious growth shall, however, include trees and shrubbery that overhang either the city streets or walkways abutting the city streets, so as to brush passing vehicles or pedestrians.

(Code 1986, § 14-36)

Cross reference(s)--Definitions generally, § 1-2.

**Sec. 22-162. Duty of property owner to cut.**

The owners of all lands or lots in the city shall keep all weeds, rank grass and

noxious growths of any kind upon such property cut or clipped.

(Code 1986, § 14-37)

**Sec. 22-163. Maximum height allowed.**

(a) All portions of land, whether improved or unimproved, within the city which are located within 130 feet of any lot or parcel containing a habitable dwelling or commercial or office building shall be kept, cut, clipped or controlled through chemical means as frequently as necessary to ensure that weeds, grass and noxious growths do not exceed a height of nine inches.

(b) All such portions of land, whether improved or unimproved, within the city which are located a distance greater than 130 feet from any lot or parcel containing a habitable dwelling or commercial or office building shall be kept, cut, clipped or controlled through chemical means as frequently as necessary to ensure that weeds, grass and noxious growths do not exceed a height of 12 inches.

(c) Notwithstanding the subsections (a) and (b) of this section, it being in the best interest of the city to preserve forest lands and wood lands in their natural state, lots or parcels of at least one acre in size and upon which mature forest or woodlands are preserved in their natural state shall not be subject to the height requirements of this section, except upon a showing by the city that such lots or parcels or portions thereof constitute an imminent threat to the health, safety and welfare of the community.

(Code 1986, § 14-38)

**Sec. 22-164. Notice to property owner to cut.**

Upon the failure of any owner of property within the city to cut, or have cut, weeds, rank grass or noxious growths, it shall be the duty of the weed

section of the public works department to serve a notice on the owner of such property to cut or to have cut, within ten days of the serving of such notice, all weeds, grass or noxious growths upon his property. Such notice may be served personally on the owner of the property, may be mailed to the last known address of such owner by registered or certified mail or may be posted on the property on which such weeds, grass or noxious growths exist.

(Code 1986, § 14-39)

**Sec. 22-165. Cutting by city.**

(a) In addition to the fine provided for in section 1-10, upon the failure of any owner of lots or lands in the city to cut or cause to be cut weeds, grass or noxious growths upon the property described in the notice mentioned in section 22-164 within ten days thereof, the public works department is authorized and directed to have such weeds, grass and noxious growths cut, and a statement of the cost shall be filed with the finance director. Work performed under this section by the city may be accomplished by cutting or by chemical control, and with city forces or by retention of services from a private contractor to perform on the city's behalf in accordance with the city's contracting and purchasing procedures.

(b) There shall be recorded a notice of lien for the cost incurred by the city as set out in subsection (a) of this section. A copy of the notice of lien shall be recorded in the county register's office, and a certified copy of such notice forwarded to the last known address of the owner of the property. This lien shall affix to the parcel of real estate immediately and shall be perfected by a suit in the chancery court of the county, within 12 months from the filing of the notice of lien in the register's office and

enforcement of the lien shall follow the provisions of T.C.A. § 66-11-101 et seq.

(c) Upon receipt of the statement of costs of cutting weeds or chemical control of grass or noxious growths pursuant to this section, the finance director may transmit a true copy thereof to the city attorney, who shall forthwith institute suit or take such other proceedings as may be necessary to enforce the lien on such property.

(d) All uncollected costs for cutting or chemical control of weeds, grass or noxious growths for the current year shall be certified to the finance director on or before December 31 of each year. It shall be the duty of the finance director to collect, as a special tax, the amount so certified at the time city taxes levied against properties on which the cutting or chemical control was done for the next succeeding year are collected. The cost of cutting or chemical control of weeds, grass and noxious growths pursuant to this section, is hereby declared to be a special tax to be collected as general taxes levied by the city.

(Code 1986, § 14-40)

Chapter 23 ZONING\*

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\*Cross reference(s)--Any ordinance amending the zoning map or zoning or rezoning any specific property saved from repeal, § 1-5(8); buildings and building regulations, ch. 6; environment, ch. 9; signs, ch. 14; streets, sidewalks and other public places, ch. 16; subdivisions, ch. 17; vegetation, ch. 22. State law reference(s)--Municipal zoning, T.C.A. § 13-7-201 et seq.

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