

City of Norfolk, VA

City Code

Abstracted January 2008

<http://www.municode.com/resources/gateway.asp?pid=10121&sid=46>

Original Document:

ZONING ORDINANCE OF THE CITY OF NORFOLK

Chapter 45 TREES AND OTHER VEGETATION*

***Editor's note:** Ord. No. 41,728, § 1, adopted Feb. 15, 2005, amended ch. 45 in its entirety and enacted similar provisions as set out herein. The former ch. 45 derived from Ord. No. 38,259, § 1, adopted Jan. 23, 1996; Ord. No. 39,590, § 11, adopted May 18, 1999; and Ord. No. 39,658, §§ 1--8, adopted June 22, 1999.

Article I. Generally

§ 45-1. Violations.

§ 45-2. Definitions.

§ 45-3. Bureau of parks and forestry.

§ 45-4. Duties of the city forester.

§ 45-5. Interference with bureau of parks and forestry.

§ 45-6. City nurseries.

§ 45-7. Picking, pulling, damaging, etc., vegetation on lands of another or in park or wildlife sanctuary.

§ 45-8. Selling trees or shrubs removed from property of another.

§ 45-9. Failure to install or maintain landscaping.

§ 45-10. Disposal or surplus trees or urban forest products.

§ 45-11. Payment in lieu of tree, shrub, and other vegetation replacement or mitigation.

Article II. Tree Ordinance

§ 45-12. Purpose and intent.

§ 45-13. Permits; when required.

§ 45-14. Maintenance permit for work on city property.

§ 45-15. Maintenance permit for work on private property.

§ 45-16. Permit exemptions.

§ 45-17. Review of application for permit.

§ 45-18. Appeal of denial of a permit.

§ 45-19. Revocation of permit.

§ 45-20. Safeguards during construction work.

§ 45-21. Stop work order.

§ 45-22. Public nuisance.

§ 45-23. Eradication of public nuisance; public or private property.

§ 45-24. Notice.

§ 45-25. Abatement by city.

§ 45-26. Reserved.

Article III. Tree Commission

§ 45-27. Tree commission--Created.

§ 45-28. Same--Membership.

§ 45-29. Same--Vacancy.

§ 45-30. Duties of tree commission.

§ 45-31. Reserved.

ARTICLE I. GENERALLY

Sec. 45-1. Violations.

Unless otherwise specified, any person violating any provision of this chapter or any permit issued pursuant to any provisions of this chapter shall be guilty of a class 1 misdemeanor. Each day a violation continues shall be deemed a new violation. In addition to any penalties imposed for each violation, a judge hearing the case may order the person responsible for such condition or violation to restore, remediate or correct the violation or condition, and each day's default in such restoration, removal or remediation after being so ordered shall constitute a violation of and a separate offense under this chapter.
(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-2. Definitions.

As used in this chapter, the following terms shall have the meanings set forth herein:

ANSI: American National Standards Institute.

Controlling arboricultural specifications and standards: Professional specifications and standards governing safe and appropriate and horticultural practices, as periodically updated or revised, including, but not limited to:

- (1) ANSI Z133.1 --American National Standards for Tree Care Operations, most current edition.
- (2) ANSI A300 --The American National Standard for Tree Care Operations-- Tree, Shrub and other Woody Plant Maintenance--Standard Practices, most current edition;
- (3) ANSI Z60.1 --America Standard for Nursery Stock, most current edition;
- (4) ISA tree-pruning guidelines ;
- (5) City of Norfolk Tree Protection Notes and Details --Specifications, standards and details for protection of trees during construction, including trees located on city-owned property, trees located within Chesapeake Bay Preservation Areas, and privately-owned trees impacted by city construction activities;
- (6) City of Norfolk Street Tree Planting and Location Standards --Standards governing the placement and type (species) of street trees approved for use in the city, most recent edition;
- (7) Council of Tree and Landscape Appraisers Guide for Plant Appraisal; and
- (8) City of Norfolk Mitigation Standards.
Chesapeake Bay Preservation Area Overlay District described in section 11-2 of the zoning ordinance in accordance with Code of Virginia 9 VAC 10-20-10 et seq.

City-owned property: Property within the city limits of the City of Norfolk owned by the city in fee simple or property impliedly or expressly dedicated to the public for the present or future use for the purpose of vehicular or pedestrian traffic or public right-of-way or park use.

Critical root zone: The portion of the root system of a tree that is the minimum necessary to maintain the continued health, vitality or stability of the tree, defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the crown spread.

Crown-spread: The distance between a tree trunk and the outermost edge of the tree canopy or branch spread.

Director: The director of neighborhood and leisure services or his designee.

Emergency utility work: Any sudden and unanticipated disruption or loss of existing utility service, including signal leaks from cable television, but not to include routine maintenance, planned repairs and service improvements or upgrades to any transmission or distribution system or residential, commercial or governmental facility.

Forester: The city forester of the city.

ISA: The International Society of Arboriculture.

Person: Any person, business, partnership, corporation, legal entity, or governmental entity or agency, and any of its subdivisions.

Property owner: The record owner or contract purchaser of any parcel of land.

Trees, shrubs, and other vegetation: All vegetation, woody, or otherwise, except lawn, ornamental grass and flowers less than twenty-four (24) inches in height.
(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-3. Bureau of parks and forestry.

The bureau of parks and forestry, in addition to the responsibilities and authorities vested in it by chapter 25.2 of this Code, shall have the management, control and care of the area between the street curbing and the walkway, and of all trees and shrubbery on the streets, avenues and public grounds of the city, shall direct and regulate planting, transplanting, pruning, removal, care and protection of all shade and ornamental trees and shrubbery to be planted and cultivated, determining species and distances for such planting, and shall have all other necessary and convenient powers incident to the conduct of its duties.
(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-4. Duties of the city forester.

Under the supervision and direction of the director and the superintendent of parks and forestry, the city forester shall have the following responsibilities:

- (a) To direct a comprehensive municipal forestry program encompassing natural resource conservation, preventative, corrective and routine maintenance, and reforestation components.
- (b) To administer the tree ordinance and street tree management plan and perform whatever acts are necessary including the planting, maintenance, treatment and protection of trees, and the removal of dead, dying, diseased, damaged or hazardous trees, including trees which by virtue of their type, form, condition, size, location, or site conditions are predisposed to structural failure, or otherwise undesirable trees, shrubs and other vegetation located on city-owned property; and to ensure that all trees, shrubs and other vegetation located on city property conform with the tree ordinance, street tree management plan, and other controlling arboricultural specifications and standards.
- (c) To establish and periodically review and revise, as necessary, controlling arboricultural specifications and standards, street tree planting and location standards, tree protection notes and details, and policies or practices to professionally manage the city's tree population and carry out the expressed intent of this article.
- (d) To direct the development and operation of a municipal nursery.

(e) Administer a vegetated buffer protection program within the Chesapeake Bay Preservation Area Overlay District.

(f) To propose annual budget requirements and staffing and equipment requirements as deemed necessary to carry out the expressed purpose and intent of this article and street tree management plan.

(g) To establish and maintain a public relations program, including annual Arbor Day observations, Tree City USA certification, and other public relations programs in furtherance of the expressed purpose and intent of this article and the street management plan.
(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-5. Interference with bureau of parks and forestry.

No person shall, in anywise, interfere with, hinder, prevent or delay or cause or permit any person to interfere with, hinder, prevent or delay the bureau of parks and forestry, or its employees, in the enforcement of this chapter, or in and about the planting, mulching, pruning, spraying, treating or removing of any tree in the public streets, parks, schools, city-owned cemeteries, or other city-owned property, or in the removing of stone, cement or other sidewalks, or stone, cement or other substances about the trunk of any tree in any street, or in cultivating, seeding and caring for the area between the street curbing and the walkway in any sidewalk of the city.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-6. City nurseries.

The bureau of parks and forestry shall have the authority to establish and maintain nurseries for the cultivation and growth of trees and plants for public use upon such land owned by the city as may be designated by the director of neighborhood and leisure services. Such nurseries shall be under the supervision of the bureau of parks and forestry and shall be operated under such rules and regulations as may be prescribed by the bureau. Such bureau is hereby authorized to supply and install trees and plants from its nurseries to be planted on the streets, parks, schools and other city-owned property, at such points as the bureau may deem expedient or for the purpose of replacing trees which have heretofore been planted, but which have died.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-7. Picking, pulling, damaging, etc., vegetation on lands of another or in park or wildlife sanctuary.

It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found growing or being upon the land of another, or upon any land reserved, set aside or maintained by the city as a public park, or as a refuge or sanctuary for wild animals, birds or fish, without having previously obtained the permission in writing of such other owner or his agent or of the superintendent or custodian of such park, refuge or sanctuary so to do, unless the same is done under the personal direction of such owner, his agent, tenant or lessee, or the superintendent or custodian of such park, refuge or sanctuary.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-8. Selling trees or shrubs removed from property of another.

It shall be unlawful for any person to sell or offer for sale within the city any tree, shrub or vine, or any part thereof which was picked, pulled up, torn up, dug up, cut or broken on the property of another without previously obtaining permission, in writing, from such other person, his agent, tenant or lessee.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-9. Failure to install or maintain landscaping.

It shall be unlawful to neglect or fail to install or maintain landscaping as shown on an approved site plan where the landscaping has been reviewed and approved by the director of neighborhood and leisure services or his designee as part of the site plan review process pursuant to the zoning ordinance.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-10. Disposal or surplus trees or urban forest products.

The director may sell surplus nursery stock produced by the city and wood and other forest products generated through urban forestry and park operations which are not needed by the city. Monies generated from permit fees, donations, gifts and the sale of surplus nursery trees and wood or other forest products, or monies received as full compensation for the appraised value of trees removed by permit, shall be used solely for the purpose of enhancing urban forestry programs and operations.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-11. Payment in lieu of tree, shrub, and other vegetation replacement or mitigation.

In any situation where replacement or mitigation is required, and it is impractical in the opinion of the director to perform replacement or mitigation, the director may accept a payment in lieu of replacement or mitigation. The payment due shall be determined by the director according to controlling arboriculture specifications and standards.

(Ord. No. 41,728, § 1, 2-15-05)

ARTICLE II. TREE ORDINANCE

Sec. 45-12. Purpose and intent.

It is the purpose of this article, to be referred to as the "Norfolk Tree Ordinance," to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other vegetation in the city. It is the intent of the city council that the terms of this article shall be construed so as to promote the planting, maintenance, restoration and protection of desirable trees, shrubs and other vegetation within the city, to protect citizens from personal injury and property damage, and to protect public property from property damage caused or threatened by improper planting, maintenance, or removal of trees, shrubs, or vegetation plants located within the city.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-13. Permits; when required.

(a) It shall be unlawful for any person except an authorized employee of the bureau of parks and forestry to perform any of the following acts on city-owned property without first obtaining a permit from the director:

- (1) Plant, transplant, prune, trim, root prune, spray, fertilize, treat, trim, remove, paint, climb or otherwise damage or disturb any tree, shrub or other vegetation or any part thereof, (including live, diseased, declining or dead), or protective and supportive devices.

(2) Place either above or below ground level, a container for trees, shrubs or other vegetation.

(3) Affix or cause to be affixed to any tree, shrub or other vegetation any sign, notice, announcement, banner, rope, cable, nail, tape, wire, or any other object, or to use the same in any connection with any guard or stake protecting or supporting such tree, or permit any electrical wires, cables, poles, cross arms, brackets, insulators, or other wires or fixtures to come into contact with any shade tree or ornamental tree on the streets or other city owned property.

(4) Dig a tunnel, trench, or otherwise excavate within the critical root zone of a tree, except within the paved roadways from curb face to curb face.

(5) Apply any chemical or material of any sort to or within the critical root zone of any tree including but not limited to insecticides, herbicides, fungicides, or soil sterilants/or growth regulators that either prevent or hinder the establishment or viability of vegetation or which is detrimental to the environment.

(6) Place any material of any sort, including, but not limited to, dirt, soil, rubble, concrete, bricks, wood, dredge spoil, asphalt, creosote timbers, logs, garbage, tires, organic wastes and personal property such as boats, trailers, vehicles on or within the critical root zone of any tree, shrub or other vegetation.

(b) It shall be unlawful for any person to perform any of the following acts within the resource protection area or intensely developed areas in the Chesapeake Bay Preservation Area Overlay District without first obtaining a permit from the director:

(1) Plant, transplant, trim, prune, remove or otherwise disturb any tree, shrub or other vegetation (including live, diseased, declining or dead), or portion thereof.

(2) Damage, cut, tap, caulk, paint, attach any rope, wire, nail, sign or any other manmade object to any tree or shrub.

(3) Dig a tunnel trench or otherwise excavate within the critical root zone of any tree, shrub or other vegetation.

(4) Apply any chemical, including, but not limited to, herbicides and/or growth regulators, that either prevents or hinders the establishment of viability of vegetation or which is detrimental to the environment.

(5) Place any material of any sort, including, but not limited to, dirt, soil, rubble, concrete, bricks, wood, dredge spoil, asphalt, creosote timbers, logs, garbage, tires, organic wastes and personal property such as boats, trailers, vehicles on or within the critical root zone of any tree, shrub or other vegetation.

(c) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice as approved by the bureau of environmental services and in accordance with applicable permit conditions or requirements.

(d) When trees, shrubs or other vegetation are removed, destroyed or damaged beyond recovery in violation of this section, the director may require that they be replaced or mitigated in accordance with controlling arboricultural specifications and standards. Failure to replace or mitigate as directed shall constitute a violation of this chapter.

(e) It shall be unlawful to fail to comply with any terms or conditions of any permit issued pursuant to this section.

(f) Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as may be required by law.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-14. Maintenance permit for work on city property.

(a) The director, under special circumstances, may issue a maintenance permit which authorizes residents within a defined area to maintain the shrubs, trees and flowers on city-owned property lying between the paved portion of the street and in areas of the city where sidewalks do not exist and the distance between the paved portion of the street and the property line is larger than is normally found in other areas of the city, and in such other areas as the director shall determine that the issuance of such maintenance permit would be in the best interest of the city in carrying out the purpose and intent of the tree ordinance. The director may impose such conditions and limitations on the permits as would be consistent with the terms and conditions of this article. If residents in the area fail to carry out the maintenance program within the conditions and limitations set forth in the permit, the director of neighborhood and leisure services may revoke the same. The issuance of such permit shall not in any way condone or authorize any property owner to maintain a public nuisance on public or private property, nor does the permit exempt such property owner from the other provisions of this article.

(b) The director may issue an area-wide or city-wide permit in order to correct or eliminate problems or conditions where it is not feasible or practicable to handle in any other way. The director may implement this permit by advertising in a newspaper of general circulation in the city setting forth the problem or condition to be corrected or eliminated, the manner and materials to be used, and other conditions, as he sees fit, to protect the urban forest.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-15. Maintenance permit for work on private property.

The director may issue a maintenance permit for activity in the resource protection area or intensely developed area in the Chesapeake Bay Preservation Area Overlay District when he has determined that the applicant has presented sufficient information to ensure the objectives of the zoning ordinance and the tree ordinance will be faithfully carried out by the applicant. The director shall impose such conditions and limitations as would be consistent with the terms and conditions of the zoning ordinance. If the permittee fails to carry out the maintenance program within the terms and conditions set forth in the approved management plan, the director shall revoke the same and take such action as is appropriate to remedy or restore the buffer area. The director shall be guided by the following performance standards designed to maintain the functional value of the buffer area and the indigenous vegetation located therein:

(1) Trees in excess of three (3) inches in diameter at breast height (four and one-half (4.5) feet above the ground) shall not be pruned or removed except as necessary to provide minimal sight lines and vistas, and provided that where removed they will be replaced with other vegetation that in the discretion of the director is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.

(2) Any access path in the buffer area shall be constructed and surfaced so as to effectively control erosion.

(3) A three-tier riparian vegetated buffer comprised of overstory, understory and groundcover plant materials will be established and/or maintained where practical in

the discretion of the director. Disturbance to the soil environment and root systems of trees to remain shall be minimized.

(4) When permitted, alterations to the resource protection area or intensely developed area in the Chesapeake Bay Preservation Area Overlay District on city-owned property must be completed and maintained by a Virginia Nurseryman and Landscape Association (VNLA) certified horticulturist, or ISA certified arborist or ISA certified tree worker.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-16. Permit exemptions.

(a) Any person performing emergency utility work to restore, but not increase beyond the original capacity of underground transmission or distribution systems or utility services to existing residential, commercial or governmental facilities, and within the same trench as existing utilities, shall be exempt from obtaining a permit, provided that all applicable controlling arboricultural specifications and standards are followed and that the city forester is notified as soon as practical should excavation necessitate cutting roots in excess of three (3) inches in diameter.

(b) Any person performing emergency work to restore but not to relocate or increase the capacity of overhead transmission or distribution systems or overhead utilities services to residential, commercial, or governmental facilities and which necessitates the cutting of limbs or branches up to four (4) inches in diameter, as measured outside the branch collar, shall be exempt from obtaining a permit, provided that all applicable controlling arboricultural specifications and standards are followed and the city forester is notified as soon as practical following the completion of such work.

(c) A resident of the city shall not be required to obtain a permit for pruning sucker growth less than one inch in diameter which originates from the base of crape myrtle trees growing in that portion of the public right-of-way between the curb and sidewalk and directly adjacent to property owned or substantially controlled by said resident, or from watering without a permit any tree, plant or shrub located in the right-of-way.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-17. Review of application for permit.

(a) The director, within ten (10) working days of the receipt of an application for a permit, shall issue a permit to perform any of the specified acts for which a permit may be required pursuant to this chapter as long as the following conditions are met:

(1) When such acts would result in abatement of a public nuisance;

(2) When such acts consistent with the development and implementation of the street tree management plan or with any regulations and controlling arboricultural specifications and standards or with the purpose and expressed intent of this chapter;

(3) When an application has been signed by the applicant and submitted to the bureau of parks and forestry detailing the location, number, size and species of trees, shrubs and other vegetation would be affected by such acts, setting forth the purpose of such acts and the methods to be used along with any additional information the city forester may find reasonably necessary;

(4) When the applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this article, the street tree management plan and controlling arboricultural specifications and standards; and

(5) When the applicant certifies that he has read and understands the provisions of this article, the terms and conditions of the permit, controlling arboricultural specifications and standards, city tree protection notes and details, and street tree planting and location standards, or other applicable standards which are pertinent to the work for which the permit is sought; or

(b) The director may place certain conditions, limitations or other applicable standards and guidelines in the permit which he deems to be necessary to carry out the purpose and expressed intent of this article.

(c) The director may require the applicant to post a bond or provide a letter of credit in an amount and with surety and with conditions satisfactory to him securing compliance with the conditions and limitations set forth in the permit.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-18. Appeal of denial of a permit.

Any person aggrieved by the actions or orders of the director respecting issuance of a permit shall within ten (10) days from such action or order have an appeal to the city manager or to a person designated by the city manager to hear such appeals. The decision of the city manager or his designee shall be the final administrative remedy under this article.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-19. Revocation of permit.

The director may revoke any permit issued under this chapter if the work for which a permit is issued is not completed in full compliance of stated conditions and limitations or if the work is completed in an unsafe manner, or in violation of any provision of this chapter, the Virginia State Code [Code of Virginia] and guidance promulgated thereto, an order of the board of zoning appeals, or any other applicable permit. The director may also take action as is appropriate to remedy or restore to a safe condition any tree, shrub or other vegetation for which a permit has been revoked or suspended at the applicant's expense.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-20. Safeguards during construction work.

For the purposes of safeguarding trees on city-owned property and in the resource protection area and intensely developed area in the Chesapeake Bay Preservation Overlay District in zoning ordinance) (sic) during construction, including pruning, overhead or underground utility, installations and excavations, within the critical root zone, the following conditions shall apply to all trees other than those for which a permit has been issued authorizing removal:

(1) Prior to the commencement of construction, all trees, shrubs and other vegetation on the building site or within the project area shall be inventoried by the applicant or contractor as to species, diameter at breast height (four and one-half (4.5) feet above ground) expressed in inches crown-spread expressed in feet, and location on the lot, and the inventory shall be clearly and accurately shown to scale on a map, drawing, or plat of known scale, and shall be submitted to the bureau of parks and forestry.

(2) Damage to any trees, shrubs and other vegetation during construction shall be immediately reported by the person causing the damage, or the owner, to the city forester, and the applicant shall treat the tree for damage in the manner specified by the director.

(3) Excavations within the critical root zone of any tree, except within the paved roadways and for all emergency repairs to existing underground utilities, shall be done only after consultation with the director and then only to the extent authorized in the

permit and in accordance with all controlling arboricultural specifications and standards and city tree protection notes and details.

(4) Unless otherwise allowed by the director, approved protective fencing shall be installed at the crown-spread or critical zone of all trees, shrubs and other vegetation located within the work zone prior to the commencement of any construction activity including mobilization, except for construction activities which limit disturbance to within the paved roadways (from face of curb to face of curb) and for emergency restoration of existing underground utility service, in order to prevent unnecessary damage to the trunk, crown, root system or soil environment.

(5) Whenever excavations, approved through a permit issued by the director, are made within the critical root zone of trees, shrubs and other vegetation appropriate measures as specifically described or referenced in the permit or City of Norfolk tree protection notes and details, shall be taken to protect the root system (roots and rooting environment) from any damage or loss, desiccation, and soil compaction.

(6) Except on improved paved roadways (from face of curb to face of curb), no material of any sort, including, but not limited to, soil, dirt, rock, stone, rubble, bricks, concrete, concrete rinse, mortar mix, asphalt, steel, wood, construction supplies, dredge spoil, fill material, organic wastes, herbicides, oil, gasoline, diesel fuel, chemicals, paint, paint thinners, waste water, construction effluents, or other materials detrimental to trees, shrubs and other vegetation or soil environment, shall be placed within the crown-spread or critical root zone of any tree, shrubs and other vegetation or uphill from such where said substance might reach the roots through a leaching process without a tree permit specifically approving same.

(7) Except on paved roadways and for emergency restoration of existing utility service to original capacity, and for construction projects where a permit has been issued by the director authorizing the use of equipment fundamental to the proposed construction activity within the critical root zone, no vehicles or heavy equipment shall be permitted within the critical root zone of any trees, shrubs and other vegetation.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-21. Stop work order.

The director may order the cessation of any work to any tree, shrub or other vegetation located on private property or public property when such work is completed in an unsafe manner which is deemed threatening to any property owned or controlled by the city, or the health, safety or welfare of the general public, or when such acts constitute a violation of this chapter. The director may further direct whatever action is reasonably necessary to protect the public safety, including, but not limited to, establishment of worker qualifications and work standards and specifications, hold harmless indemnification, and a liability insurance policy in the amount established by the director which names the city as an additional insured.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-22. Public nuisance.

(a) Any tree, shrub or other vegetation or a portion thereof, whether located on city-owned property or on private property, which by reason of its location or condition constitutes an imminent danger to the public health, safety or welfare of the general public shall constitute a public nuisance.

(b) Any tree, shrub or other vegetation or a portion thereof, whether located on city-owned property or on private property, which dangerously obstructs free passage of pedestrian or vehicular traffic shall constitute a public nuisance.

(c) Any tree, shrub or other vegetation or a portion thereof, whether located on city-owned property or on private property, which dangerously obstructs the view in the "visibility triangle" as defined in the city street tree planting and location standards shall constitute a public nuisance.

(d) Any tree, shrub or other vegetation growing on private property, when infested by any insect or infected by any disease, which by reason of such infestation or infection endangers the life or growth or healthful existence of other trees, shrubs or other vegetation within the city not so infested or infected shall constitute a public nuisance.

(e) Any tree, shrub, or other vegetation growing on private or public property, which by reason of its invasive or aggressive growth habit encroaches upon or threatens any rights-of-way, park, or other city-owned property shall constitute a public nuisance.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-23. Eradication of public nuisance; public or private property.

(a) Any public nuisance as specified in this article which is located on city-owned property shall be pruned, removed, or otherwise treated by the director in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.

(b) Any public nuisance as specified in this article which is located on private property shall be pruned, removed, or otherwise treated by the property owner or his agent in whatever fashion is required to abate the nuisance.

(c) In the event that a confirmed infestation or infection, as described in section 45-22, shall occur, the director, at the convenience of the city and when authorized by the city manager, may cause such abatement measures as he shall deem appropriate to be accomplished at public expense.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-24. Notice.

In the event of a public nuisance existing on private property, the director shall cause a written notice to be personally served, posted on the property, or sent by regular mail to the person to whom was sent the tax bill for the real estate taxes for the last preceding quarter. Such notice shall describe the kind of tree, shrub or other vegetation which has been declared to be a public nuisance, its location on the property, the reason for the declaration of a nuisance and shall state the actions that the property owner may undertake to abate the nuisance and the time limit for the abatement. Failure to abate in the time specified shall constitute a violation of this chapter.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-25. Abatement by city.

If such nuisance remains on any land or premises after the expiration of the time specified in the notice given under this section, the director may cause the same to be abated or removed therefrom at the expense of such person, or of the occupant or owner of such land or premises, as the case may be. In addition, an administrative fee, as prescribed by the Code of Virginia and as approved by the city manager, shall be assessed in each case. If the land is unoccupied and the owner is not a resident of the city, notice of abatement by the city shall be given by mailing or delivering a letter to the last known address of the owner no less than five (5) days before the abatement by the city. If the abatement is done at the expense of the owner, the expense of abatement or removal and the administrative fee shall be a lien upon such land or premises and shall be reported to the city treasurer, who shall collect the same in the manner in which city taxes levied upon real estate are authorized to be collected. Such expenses shall be docketed in a book kept for that purpose in the office of the city treasurer

and indexed in the name of the person owning such premises or land at the time such lien accrued.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-26. Reserved.

ARTICLE III. TREE COMMISSION

Sec. 45-27. Tree commission--Created.

Pursuant to section 141 of the City Charter, there is hereby created the "Norfolk Tree Commission," which may be designated as "tree commission," and which shall act in an advisory capacity to the director.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-28. Same--Membership.

The tree commission shall be composed of five (5) commissioners appointed by the council. The members of the commission shall serve without compensation and shall reside within the city. Of the commissioners initially appointed to the tree commission, one shall serve for a term of one year, two (2) shall serve for a term of two (2) years, and two (2) shall serve for a term of three (3) years. Thereafter, each member appointed shall serve for a term of three (3) years with maximum service not to exceed two (2) successive full three-year terms. The council shall designate the individuals serving for the particular terms of the initial appointments and shall designate the chairman and vice chairman of the tree commission.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-29. Same--Vacancy.

Within thirty (30) days following the expiration of the term of any appointed commissioner, who shall serve until his successor has been appointed and qualified, his successor shall be appointed by the council and the successor shall serve for the term of three (3) years. Should any commissioner resign or be removed from the tree commission, or a vacancy otherwise occur, a successor shall be appointed by the council to serve the unexpired term.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-30. Duties of tree commission.

The tree commission shall perform the following duties:

- (1) Within a reasonable time after its appointment, the tree commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this article.
- (2) It shall advise the director on any matter pertaining to the tree ordinance and its enforcement.
- (3) The topics upon which this advice may be given shall include, but are not limited to, any of the following:
 - a. Amendments to the Norfolk Tree Ordinance, or revisions to the street tree management plan;
 - b. Policies concerning selection, planting, maintenance, removal of trees and other vegetation within the city;
 - c. Establishment of educational and information programs;

- d. Establishment and administration of volunteer programs; and
- e. Development of policies and procedures regarding the city forester's duties.

(Ord. No. 41,728, § 1, 2-15-05)

Sec. 45-31. Reserved.