

ORDINANCE NO. 3082
(Amend Henderson Municipal Code Chapter 5.28)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON,
NEVADA, TO AMEND CHAPTER 5.28 – TREES AND PLANTS - OF THE
HENDERSON MUNICIPAL CODE AND MATTERS PROPERLY RELATED
THERE TO.

WHEREAS, Ordinance 1234 was adopted February 19, 1991, and established Henderson Municipal Code 5.28; and

WHEREAS, amending the sections will yield a more clear and concise code; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Chapter 5.28 Trees and Plants is hereby amended as follows:

Sections:

5.28.010 - Duties of abutting landowners.

5.28.020 - Authority to order the treatment, trimming or removal of trees, plants and shrubs.

5.28.030 - Procedure upon order to treat, trim or remove.

5.28.040 - Action upon noncompliance.

5.28.050 - Collection of delinquent charge.

5.28.060 - Penalty.

5.28.010 - Duties of abutting landowners.

It shall be the duty of any person growing a tree, plant or shrub on his property to keep such tree, plant or shrub from encroaching upon or obstructing the abutting or adjacent streets, sidewalks and public parks, buildings and grounds by:

A. Trimming or removing his tree, plant or shrub so as not to constitute, in the opinion of the building director or his code enforcement officer, a hazard to any member of the public or render unsafe in any manner whatsoever any public place and/or right-of-way;

B. Treating or removing any tree, plant or shrub so diseased or insect-ridden as to constitute a hazard to the public or to any tree, plant or shrub in public places.

(Ord. 1234 (part), 1991)

5.28.020 - Authority to order the treatment, trimming or removal of trees, plants and shrubs.

The building director or his code enforcement officer shall have the authority to order the treatment, trimming or removal of any tree, plant or shrub upon private property when he shall find such action necessary to public safety and/or health or to prevent the spread of disease or insects to public trees, plants or shrubs or any public place.

(Ord. 1234 (part), 1991)

5.28.030 - Procedure upon order to treat, trim or remove.

When the building director or his code enforcement officer shall find it warranted to order the treatment, trimming or removal of any tree, plant or shrub, as authorized in section 5.28.020, he shall serve a written order to correct the dangerous or unsafe condition upon the owner, lessee or occupant of the private property by one of the following methods of service:

- A. By making personal delivery of the order to the owner, lessee or occupant of the private property where the dangerous or unsafe condition exists or originates;
- B. By leaving the order with some person of suitable age and discretion upon the premises;
- C. By affixing a copy of the order to the door at the premises in violation;
- D. By mailing a copy of the order to the last known address of the owner of the premises, by certified mail, return receipt requested;
- E. Only if the above four methods of service are impractical, by publishing a copy of the order in a local newspaper once a week, for three consecutive weeks.

(Ord. 1234 (part), 1991)

5.28.040 - Action upon noncompliance.

When a person to whom an order is directed shall fail to comply within five days of service of the order, the building director may remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition hereunder shall be authorized to enter the premises for that purpose.

(Ord. 1234 (part), 1991)

5.28.050 - Collection of delinquent charge.

When the city or other person with whom the city has contracted has effected the treatment, trimming or removal of any tree, plant or shrub pursuant to this chapter, the cost thereof, plus accrued interest at the rate of ten percent per annum from the date of the completion of the work shall be charged to the owner of the private property. Such charge shall constitute a lien upon the real property of such owner until such charge is paid, as well as constitute a debt of the record owner of the property and of the person occupying such premises to the city. The city may bring a civil action in any court of competent jurisdiction to recover such charge, or follow the lien procedures set forth in section [5.04.050D] 15.12.060(N)(3)(e).

(Ord. 1234 (part), 1991)

5.28.060 - Penalty.

Any person who, having been served with a written order as provided in HMC [section] 5.28.030, and fails to comply therewith, shall be deemed guilty of a misdemeanor. Each day such a violation is committed or permitted to continue shall constitute a separate offense.

(Ord. 1234 (part), 1991)

- SECTION 2. If any section, subsection, paragraph, clause or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.
- SECTION 3. All ordinances, or parts of ordinances, sections, subsection, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.
- SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on November 8, 2013, in the Review Journal.

PASSED, ADOPTED, AND APPROVED THIS 5th DAY OF NOVEMBER, 2013.



Andy Hafen, Mayor

ATTEST:



Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on October 15, 2013, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on November 5, 2013, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held November 5, 2013, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: Andy Hafen, Mayor
 Councilmembers:
 Sam Bateman
 John F. Marz
 Gerri Schroder

Those voting nay: None
Those abstaining: None
Those absent: Debra March



Andy Hafen, Mayor

ATTEST:



Sabrina Mercadante, MMC, City Clerk

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is enclosed in [bold brackets], and language proposed to be added is underscored.