

Village of Reese – Tree Ordinance (10/09)

<http://www.municode.com>

ARTICLE V. TREES*

***State law references:** Trees and shrubs, MCL 247.241 et seq.; municipal forests, MCL 324.52701 et seq.

Sec. 10-116. Purpose.

It is the purpose of this article to promote, beautify and protect the health, safety, and general welfare of the village by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other planted vegetation within the village.

(Ord. No. 37, § 1, 12-10-1990)

Sec. 10-117. Definitions.

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

Parks means public land used for recreation, and all areas owned by the village to which the public has free access.

Public places means areas owned by the village to which the public has free access.

Rights-of-way means land lying between property lines on either side of all streets, avenues, or ways within the village. Land on which public highways, sewer lines, or public utility or service is built.

Village forester means the person designated by the tree board and/or village council to implement the provisions of this article.

(Ord. No. 37, § 2, 12-10-1990)

Sec. 10-118. Tree board--Established.

There is hereby created and established a tree board for the village, which shall consist of five or more members approved by the village council. Members of the board shall serve without compensation.

(Ord. No. 37, § 3, 12-10-1990)

Sec. 10-119. Same--Term of office.

The term of five or more members of the tree board shall be three years, except that the terms of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(Ord. No. 37, § 4, 12-10-1990)

Sec. 10-120. Applicability.

This article provides full power and authority over all trees, plants, shrubs or vegetation located within street rights-of-way, parks and public places of the village; and to trees, plants, shrubs and vegetation on private property that constitute a hazard or threat as described herein.

(Ord. No. 37, § 5, 12-10-1990)

Sec. 10-121. Licensing.

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or vegetation on village property without first procuring permission of the tree board, village council, or both.

(Ord. No. 37, § 6, 12-10-1990)

Sec. 10-122. Insurance.

Before any permits shall be issued, each contractor shall first file evidence of possession of liability insurance with the village office.

(Ord. No. 37, § 7, 12-10-1990)

Sec. 10-123. Landscaping.

In new subdivisions or when the development of commercial property occurs, the tree board and/or village council will review landscaping plans and, if necessary, require street trees to be planted in any of the streets, parking lots, parks and others public places abutting lands henceforth developed and/or subdivided.

(Ord. No. 37, § 8, 12-10-1990)

Sec. 10-124. Tree planting, maintenance and removal.

(a) *Tree species.*

(1) The tree board and/or village council develops and maintains a list of desirable trees for planting along streets in two size classes: small and large.

(2) A list of trees not suitable for planting will also be created and enforced by the tree board and/or village council.

a. The official street tree species for the village shall be as set out in chapter 36, pertaining to zoning. No species other than those included in this list may be planted as street trees without written permission of the village tree board and/or village council.

b. The specific tree species which are prohibited from being planted as street trees in the village are set out in the prohibited tree list in chapter 36, pertaining to zoning.

(b) *Spacing.* The spacing of street trees will be in accordance with the two species size classes listed in subsection (a)(1) of this section, and no trees may be planted closer together than the following: small trees, 30 feet, and large trees, 50 feet; except in special plantings designed or approved by a landscape architect. Each residential lot in the village is entitled to at least one street tree.

(c) *Distance from curb and sidewalk.* The distance trees may be planted from curbs, or curblines and sidewalks, will be in accordance with the two species size classes listed in subsection (a)(1) of this section. As a general standard, no trees may be planted closer to

any curb or sidewalk than the following: small trees, two feet; and large trees, four feet. Exceptions to this standard may be approved by the tree board and/or village council in those areas where the distance between the curb and sidewalk is less than eight feet.

(d) *Distance from street corners and fireplugs.* No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than eight feet of any fireplug or driveway.

(e) *Distance from utility poles.* No street tree shall be planted closer than ten feet of any utility pole.

(f) *Topping.* It shall be unlawful as a normal practice for any person, firm or village department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the tree board and/or village council.

(g) *Pruning, corner clearance.* Every owner of any tree overhanging any street or right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street intersection, and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. No. 37, § 9, 12-10-1990)

Sec. 10-125. Adjacent landowner responsibility.

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the tree board and/or village council. The person receiving the permit shall abide by the standards set forth in this article.

(Ord. No. 37, § 10, 12-10-1990)

Sec. 10-126. Tree protection.

(a) Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the tree board and/or village council shall at once cause written notice to be served upon the owner of the property which such diseased or infested tree is situated and the notice shall require such property owner to eradicate, remove and or otherwise control such condition within reasonable time to be specified in such notice.

(b) There shall be guidelines and standards for trees proposed to be retained in a developer's tree protection plan. Grading or locating utilities within the tree's dripline is prohibited. Protective barriers shall be placed around trees, preventing siltation. Or, developers may be required to preserve a percent of forested tracts, plant trees in open space, or pay into a county tree planting fund so that there is no net loss of tree cover.

(c) The tree board and/or village council shall have as one of their duties the location, selection and identification of any trees which qualify as landmark trees. A tree may qualify as a landmark tree if it meets one or more of the following criteria: species, rarity, old age, association with a historical event or person, abnormality, scenic enhancement, etc.

(Ord. No. 37, § 11, 12-10-1990)

Sec. 10-127. Private trees.

The village forester and/or his official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance for the purpose of inspection only.

(Ord. No. 37, § 12, 12-10-1990)

Sec. 10-128. Permits.

No person except the tree board and/or village council or a contractor hired by the village may perform any of the following acts without first obtaining from the tree board and/or village council a permit for which no fee shall be charged, pertaining to public rights-of-way:

- (1) Planting and removal of trees or shrubs.
- (2) Trimming of trees or shrubs.
- (3) Spraying of trees, shrubs or vegetation with:
 - a. Insecticide;
 - b. Pesticide;
 - c. Weed killer;
 - d. Defoliant.

(Ord. No. 37, § 13, 12-10-1990)

Sec. 10-129. Enforcement.

The tree board and/or village council or both shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, plants and other planted vegetation upon the rights-of-way of any street, alley, sidewalk or other public place in the village.

(Ord. No. 37, § 14, 12-10-1990)

Sec. 10-130. Municipal civil infraction; claims and appeals.

(a) *Violations.* Any person who violates any provision of this article or who fails to comply with any notice issued pursuant to provisions of the article shall be responsible for a municipal civil infraction. If, as a result of the violation of any provision of this article, the injury, mutilation, or death of a tree, shrub, or other planted vegetation on village-owned property is caused, the cost of repair or replacement of such tree, shrub, or other planted vegetation shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens," as published by the International Society of Arboriculture.

(b) *Assessment of claims.* In the event that a nuisance is not abated by the date specified in the notice, the tree board and/or village council or both is authorized to cause the

abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

(Ord. No. 37, § 15, 12-10-1990)