

City of Sylvan Lake, MI – Tree Ordinance

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ARTICLE III. DEAD, DISEASED OR DANGEROUS TREES, SHRUBS AND PLANTS

Sec. 74-41. Purpose.

The purpose of this article is to protect the public health, safety and welfare and owners and occupants of land in the city, their family members, guests, vendors and members of the public, upon which dead, diseased or dangerous trees, shrubs and plants, including stumps and/or branches thereof are located, and to require their removal in the public interest.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-42. Definitions.

The following terms when used in this article shall have the meanings set forth in this section:

Branch includes any limbs, trunks, twigs and leaves of a tree, shrub or plant.

Dangerous means anything that threatens the health, safety and welfare of the public, including but not limited to the owner as defined below, his or her family members, guests and vendors.

Dead means no longer living.

Diseased means showing evidence of an illness or abnormal condition or disorder, including an infestation by insects or animals, which threatens or afflicts the well-being of a tree, shrub or plant, whether contagious or not contagious.

Owner means a person who owns, rents, leases or occupies any lot, parcel of land, or premises in the city, upon which trees, shrubs and plants are located.

Plant means a photosynthetic organism that has cellulose cell walls, growing in soil or water, with leaves and sometimes flowers, lacking locomotion, and without obvious nervous or sensory organs from the kingdom classification of plantae. It includes trees, shrubs and any other form of plant life.

Premises means any structure, house, garage or building of any type.

Privately owned means any tree, shrub or plant, located on a lot, parcel of land, or premises in the city under the legal or equitable control of an owner as defined above, excluding that which is owned by the city, county or state, or their agencies.

Shrub means any form of plant life less than four and one-half feet in height.

Stump means that part of a tree, shrub or plant remaining attached to the root after the trunk is cut.

Tree means any form of plant life at least four and one-half feet or more in height and at least four inches or more in diameter. The diameter size shall be measured four and one-half feet from the base of the tree.

Wooded area means a relatively small area of land containing a dense collection of trees, shrubs and/or plants.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-43. Dead, diseased or dangerous trees, shrubs or plants.

The owner shall remove a dead, diseased or dangerous tree, shrub or plant from his or her property in the city.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-44. Stumps.

Unless located within a wooded area, the owner shall remove a stump below the surface of the ground so that the top of the stump does not project above the preexisting surface of the ground. Further, the preexisting surface of the ground may not be raised in order to hide or cover the stump. Within a wooded area, stumps may be left no higher than 24 inches above grade.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-45. Branches.

The owner shall trim, prune or remove a dead, diseased or dangerous branch hanging from or on his or her property in the city.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-46. Overhang or encroachment on sidewalk.

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any sidewalk, bicycle path or safety path in the city in a manner so as to interfere with the free passage of persons using such sidewalk, bicycle path or safety path.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-47. Overhang or encroachment on street, road or highway.

The owner shall trim, prune, or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any street, road or highway in the city, in a manner so as to interfere with the free passage of persons and/or motor vehicles using such street, road or highway.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-48. Overhang or encroachment on utility poles or lines.

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any utility pole or line, telephone pole or line, electrical pole or line, streetlight or line, or their equivalent, or upon or under any existing premises in the city.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-49. Overhang or encroachment on neighboring lands.

The owner shall trim, prune or remove a dead, diseased or dangerous tree, shrub or plant, including any stump and/or branch thereof, which overhangs or encroaches upon or under any neighboring lots, parcels of land or premises in a manner so as to interfere with the neighbor's quiet enjoyment or use of his or her property.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-50. Owner's cost and expense.

The owner, or his or her agent, shall perform the duties and requirements in this article at his or her sole cost and expense.

(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-51. City authority to perform acts and assess costs; procedure.

When the city discovers that a tree, shrub or plant, including any stump and/or branch thereof, is in violation of these sections, the city shall serve written notice, by first class mail and certified mail, return receipt requested, upon the owner of the subject property. The notice shall describe the tree, shrub or plant, its location, the nature of the violation, and order the owner to trim, prune or remove the tree, shrub or plant, including any stump and/or branch thereof. The notice shall also specify a date and time, not less than 30 days from the date of the last mailing or within such additional time as the notice may specify, for compliance by the owner. The owner shall comply with any such notice within the time period specified therein, unless the owner provides written proof to the city from an arborist, certified by the International Society of Arboriculture, or equivalent, stating that the offending tree, shrub or plant, including any stump and/or branch thereof, is not dead, diseased or dangerous and does not require trimming, pruning or removal. (Ord. No. 288, § 1, 10-10-2007)

Sec. 74-52. Failure to pay.

If the owner refuses, fails or neglects to perform any duty required of him or her by the foregoing sections, the city may seek a warrant, and if issued, shall enter upon the lot, parcel of land, or premises, without further notification to the owner, and perform the work required. Upon completion of the work, the city shall serve written notice on the owner, by first class mail, of its intention to assess the owner's property for the cost of the work, along with the penalties specified in section 74-53 below. If the owner fails to pay the same within 30 days from the date of mailing, the city treasurer shall assess such amount against the owner's real property on the next tax roll. This assessment shall be collected and treated in the same manner as property taxes assessed under the general laws of this state. In addition thereto, the city may file and have recorded at the Oakland County Register of Deeds, a claim of interest in land securing repayment to the city. Upon repayment, the city shall discharge its claim of interest in land. (Ord. No. 288, § 1, 10-10-2007)

Sec. 74-53. Emergency removal.

When a tree, shrub or plant, including any stump and/or branch thereof, constitutes an immediate hazard to the health, safety and welfare of the owner or the public, and where the delay of notification would serve to further endanger the public, the city may enter upon such lot, parcel of land, or premises, without notification to the owner, and perform the work required and assess the cost thereof to the owner, in the same manner indicated above. Such events include, but are not limited to storm damage where a tree is endangering a utility pole or line, or endangering an existing structure, home, building, street, road or highway. (Ord. No. 288, § 1, 10-10-2007)

Sec. 74-54. Hardship.

Where the enforcement of any part of this article constitutes a hardship on an owner, and upon an appeal by the owner, the city council may waive the application any such part of this article as it deems necessary. (Ord. No. 288, § 1, 10-10-2007)

Sec. 74-55. Private property.

The requirements in this article pertain to trees, plants and shrubs, including any stumps and/or branches, which are privately owned as defined above.
(Ord. No. 288, § 1, 10-10-2007)

Sec. 74-56. Violations and penalties.

In addition to the sanctions specified in section 74-50 above, a violation of this article is designated as a municipal civil infraction and a violator shall pay sanctions and/or fines in the amount of up to \$500.00 and shall pay costs of prosecution, including attorney fees. Unless set by separate resolution of the city council, an owner that refuses, fails or neglects to perform any duty required of him or her by the foregoing sections shall be subject to costs in the amount of \$300.00.
(Ord. No. 288, § 1, 10-10-2007)