

## ARTICLE IV. MUNICIPAL TREES\*

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\***State law references:** Municipal forests, MCL 324.52701 et seq.

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Sec. 14-101. Purpose and intent.

(a) It is in the best interest of the city and the citizens and public thereof that a comprehensive master plan for planting and maintenance of city-owned trees within the city be adopted, and that uniform and standard laws be adopted for the purpose of regulating, developing and providing for the planting, maintenance and removal of trees and stumps in any street, park or public place within the city, or under its jurisdiction and control, in order to better control problems of soil conservation, air pollution, and noise, and to provide necessary funding for a uniform, continuous city tree program for the purpose of beautifying and maintaining property values.

(b) The intent of this article is to protect and encourage the protection of trees, plants and shrubs, to provide for public health, safety and general welfare and to promote and preserve the city's aesthetic value.

(Code 1979, § 12.16.020)

Sec. 14-102. 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:

*City forester* means the designated official of the City of Hillsdale, lying within the County of Hillsdale, State of Michigan, assigned to carry out the enforcement of this article.

*Department of public facilities* means the department under whose jurisdiction park and/or street trees fall.

*Large trees* are designated as those attaining a height of 45 feet or more.

*Medium trees* are designated as those attaining a height of 30 to 45 feet.

*Park* includes all public parks having individual names.

*Parkway* means that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

*Plants* includes all "nonwoody" vegetation now or hereafter growing on any public street, highway, alley, or public place.

*Property line* means the outer edge of a street or highway and does not pertain to the traveled pavement surface in itself.

*Property owner* means the person owning such property as shown by the records on file at the county register of deeds office.

*Public places* includes all other grounds owned by the city, lying within the county, or under its control or supervision whether owned, leased, or under contract of the city.

*Public trees* means all trees now or hereafter growing on any street or any public areas where otherwise indicated.

*Small trees* are designated as those attaining a height of 20 to 30 feet.

*Street-highway* means all land lying between the so-called property lines on either side of all public streets, roads, boulevards, alleys, or parts thereof.

*Street or highway* means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

*Trees and shrubs* means all woody vegetation now or hereafter growing on any public street, highway, alley, or public place.

(Code 1979, § 12.16.030)

#### Sec. 14-103. Regulation generally.

The city council shall have full power and authority over all trees, plants, and shrubs planted or hereafter planted in the streets, parks and public places of the city. The maintenance of such trees, plants and shrubs shall be subject to the provisions of this article, and such rules and regulations as the city council may from time to time hereafter adopt, and as it deems necessary to properly control and regulate the planting, maintenance, protection and removal of trees, plants and shrubs on public areas of the city.

(Code 1979, § 12.16.040)

#### Sec. 14-104. City forester.

Subject to the approval and at the direction of the city council, the city manager shall designate a person to be known as the city forester whose duty it shall be, under the authority given by the city council, to superintend, regulate and encourage the preservation, culture and planting of shade and ornamental trees, plants and shrubs, and to direct the method and time for trimming the same; to advise, without charge, owners and occupants of lots regarding the kind of trees, plants and shrubs and the method of planting best adapted to or most desirable on particular streets and public highways; and to take such measures as may be deemed necessary for the control and extermination of insects, pests and plant diseases which may injuriously affect trees, plants or shrubs that are now growing or may be hereafter growing in the streets, parks, public highways, or boulevards of the city.

(Code 1979, § 12.16.050)

#### Sec. 14-105. Permits generally.

(a) It is unlawful for any person to perform or undertake, or cause to be performed or undertaken, any work or activity covered by and included within this article without first filing an application for and procuring a permit from the city forester or his designated agent.

(b) Every permit issued shall specifically describe the location and nature of the work or other activity to be performed under it and shall contain such other information as may be required by such regulations as may be hereafter adopted from time to time by the city council.

(c) Any permit issued pursuant to the provisions of this article and in accordance with applicable regulations adopted by the city council shall automatically become null and void upon expiration of the permit period or at any time the permit holder violates the provisions of this article, the permit, or the regulations applicable thereto.

(d) No charge shall be made for the issuance of any permit unless it is determined necessary by the city forester, or such person as he may designate, to assign an inspector to supervise the work or other activity to be performed under the permit to be issued. In the event an inspector is determined to be necessary, the department shall determine the charge for such inspection services on an actual cost basis, and such actual cost shall be paid by the person seeking the permit as a prerequisite to its issuance.

(e) Notice of commencement and completion of work or other activity authorized by the permit shall be made to the city forester as stated on the permit issued.

(Code 1979, § 12.16.060)

Sec. 14-106. Permit required for installation of public utilities.

All permits issued for the installation of public utilities shall be certified by the city street administrator. When a permit is given by the city forester to a telephone, telegraph, electric power, or other public service corporation or utility to trim trees, or perform other operations affecting public trees or shrubs, the permit authorizing such trimming or other activities shall be limited to that which is actually necessary to the maintenance of the service provided by such public utility; and such work shall be done in a neat and workmanlike manner and according to specifications outlined by the city forester.

(Code 1979, § 12.16.070)

Sec. 14-107. Permit required for planting generally.

(a) No trees, plants or shrubs shall be planted in any of the streets, highways, parks or other public areas in the city unless and until the city forester shall have first approved the kind, size and variety of the same, designated the location thereof, and granted a permit for the planting of same.

(b) Any trees, plants or shrubs authorized for planting within the triangle formed by the intersection of right-of-way lines and extending for a distance of 25 feet each way from the intersection on any corner within the city shall not be permitted to grow to a height of more than three feet above the surface of the intersecting roadways.

(c) The city forester shall have the authority to plant trees, plants or shrubs in any public street, highway, park or other public areas in the city which he, in his sole discretion, deems adequate for his purpose.

(Code 1979, § 12.16.080)

Sec. 14-108. Permit required for planting in new subdivisions.

(a) The city forester may require street trees to be planted by the property owner, developer or subdivider on all streets, parks and public places abutting lands henceforth developed and/or subdivided within the city. In such event, a proposed planting plan and permit application shall be submitted by the property owner, developer, or subdivider to the city forester for approval and issuance of a planting permit prior to final plat clearance by the city. The city forester shall provide planting specifications to the

property owners of the proposed development and/or subdivision within seven days of receipt of written request therefor.

(b) The city forester, upon approval of the proposed planting plan but prior to the issuance of a planting permit, may require the property owner to post bond with the city for an amount equivalent to one-half the total established value of the trees required by the city forester to be planted. Upon notification of planting completion to the city forester by the land owner, and certification as to satisfactory workmanship and completion of the tree planting, the city forester shall direct the city to release the bond. (Code 1979, § 12.16.090)

Sec. 14-109. Permit required for maintenance.

No person shall hereafter move, spray, brace, trim, do surgery work, or cut above or below ground any branch or root therefrom or otherwise disturb any tree, plant or shrub in any highway, park or public place of the city, nor cause such acts to be done by others without first obtaining a written permit from the city forester who shall issue the permit if in his judgment the proposed work is necessary and the proposed method of workmanship thereof is of a satisfactory nature. The person receiving such permit shall abide by the specifications and standards of practice in this article and of any regulation as may be hereafter from time to time adopted by the city council, and shall as a condition of such permit agree to hold the city harmless from any and all liability which might result from the work or activity authorized. In addition, the city forester may require the person receiving such permit to provide such insurance coverage and in such amounts as he deems necessary to protect the interest of the city.

(Code 1979, § 12.16.100)

Sec. 14-110. Permit required for certain acts.

No person shall, without first obtaining a written permit from the city forester:

- (1) Fasten any sign, card, poster, wire, rope or other material to, around or through, any tree, plant, or shrub or its guard;
- (2) Permit any fire to burn where such fire or its heat, smoke or fumes will injure any portion of any tree, plant, or shrub;
- (3) Permit any toxic chemical to seep, drain, or to be emptied on or about any tree, plant, or shrub;
- (4) Deposit, store, place or maintain, on any street, highway, or other public place, any brick, sand, stone, concrete or other material which may impede free passage of water, air and fertilizer to the roots of any tree, plant, or shrub growing therein;
- (5) Fail to erect a suitable protective barrier around trees or shrubs apt to be injured during any building construction;
- (6) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of 40 feet of any tree or shrub;
- (7) Knowingly permit any electrical wires to come into contact with or be attached to any tree or shrub;
- (8) Excavate any ditches, tunnels, or trenches, or lay any drive within a radius of 30 feet from any tree or shrub;
- (9) Move any building or other large object along any street without furnishing any bond deemed necessary or cash sufficient to cover damage as a result of moving;

(10) Drive, park, haul or store any automobile, truck, trailer, boat, motorcycle, snowmobile, motor home, or other motorized and/or wheeled vehicle within 25 feet of an existing tree in any street, park, or public place except while within the clearly delineated travel or parking zones of any roadway, alley, or parking lot. This shall not be construed as to preclude parking on any gravel, concrete or bituminous driveway or entryway, or operating a motor vehicle on any gravel-surfaced roadway within 25 feet of such tree. (Code 1979, § 12.16.110)

Sec. 14-111. Conditional permit for removal of tree or shrub.

As a condition to any permit issued for the removal of any tree or shrub, the city forester may require that the permit holder plant, at his sole expense, a tree or shrub designated by the city forester in place of the one removed at the removal site or at any alternate site located in a public area immediately adjoining the permit holder's property. (Code 1979, § 12.16.120)

Sec. 14-112. Loss of public trees; value recovery.

(a) Whenever the city forester shall determine that a tree in any street, park or public place has been impaired, damaged, broken, severed, destroyed, or removed in a manner which will cause immediate or future removal of the tree, which is deemed premature and untimely based on the condition, vigor, location, kind and age of the trees, and the city forester shall have knowledge of the person causing the damage, then the city forester shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart.

(b) This shall not construe that the value received by the city shall be less than the cost of the removal of the damaged tree and replacement of a comparable tree as determined by the city forester, of not less than three-inch trunk diameter measured at a height of six inches above the ground, nor shall the city forester be restricted in his choice of the replacement planting site.

(c) It shall be the duty of the police department having knowledge of such damage or persons causing damage to immediately report same to the city forester for investigation.

(d) It shall be the duty of the city forester to notify the city manager and city attorney of any of the tree damage which shall dictate value recovery to the city.

(e) The full amount of the value recovered for the damaged tree shall be conveyed to the city forester for future tree planting purposes notwithstanding the deduction of the removal cost of the damaged tree and replacement of the tree.

(f) The city forester shall determine the time of the removal of the damaged tree, but it shall not be required that all the damaged trees must be immediately removed if found to be in safe condition in order for value recovery to take place.

(Code 1979, § 12.16.130)

Sec. 14-113. Abatement of infestations; entering private lands.

(a) Any trees, plants, shrubs, or any private lands whereon insect pests and plant diseases may be found to have injuriously affected either the trees, plants or shrubs, or which may injuriously affect the public health and welfare may be entered upon by the city forester or other authorized employees to make field inspections, including the removal of specimens for laboratory analysis that may be necessary to determine the

presence of the infestation or to locate any private lands which might serve as a breeding place for insects.

(b) After determination of infestation, the city forester or other authorized employees of the park department may by written notice give the property owner a definitive time, but not less than ten days, to remove, treat and dispose of the infested trees, plants, or shrubs. If the work is not satisfactorily completed by that time, then and in that case the city forester or other authorized agent may enter upon the property and remove, destroy, and/or treat the infested area by approved practice.

(c) If the nature of the infestation for reasons of public health and welfare does not permit the affording of ten days' written notice to the property owner, the cost of the removal, destruction, or treatment shall be borne by the city at large. In any case whereafter notice has been given to the property owner and he refuses or neglects to destroy or cause to be destroyed such infestation within 15 days after receipt of such notice, the city forester may, without further notice, cause the same to be done. In such case, all cost pertaining to the destruction of such infestation shall be paid from the city treasury, and the amount thereof assessed against the property on the next general assessment roll of the city. Where definite ownership of property cannot be established or where proper notice cannot be given the owner thereof, it shall be the duty of the city forester to cause the destruction of the infestation at the expense of the city.

(d) In the event the city forester or those designated by him are refused admittance upon private property for the purpose of making the inspections contemplated by this section or for the purpose of removing, destroying or treating infestations determined to exist thereon, application for an order requiring the occupant and/or owner of the property to permit such entry, inspection, removal, destruction, or treatment and requiring such owner and/or occupant to cease and desist from interfering therewith may be sought in any court of competent jurisdiction.

(Code 1979, § 12.16.140)

#### Sec. 14-114. Public nuisance.

(a) Any tree or shrub or parts thereof growing upon private property but overhanging or interfering with the use of any street, park, public improvement, or public place of the city that in the opinion of the city forester endangers the life, health, safety, or property of the public shall be declared a public nuisance.

(b) Any tree growing on private property within the city afflicted with any dangerous and infectious insect infestation or tree disease shall be declared a public nuisance.

(c) Any such trees located in streets, parks, or public places shall be removed at city expense and under the direction of the city forester.

(d) Whenever any public nuisance exists contrary to the provisions of the sections in this article, the city forester or his authorized agent shall give written notice to the owner or his agent or the occupant of the property, describing the tree, its location and the nature of the nuisance, and ordering the owner, agent, or occupant to take such measures as may be reasonably necessary to correct or cease such nuisance, specifying the measures required to be taken.

(e) It is unlawful for any person to permit, cause, or suffer the existence of a public nuisance from and after 30 days following the date of the notice provided for.

(f) In any case notice given shall not be complied with, the city forester is authorized and empowered to order the removal or abatement of the public nuisance and, upon failure of the property owner to comply with such order in accordance with its terms, shall have the authority to make application to any court of competent jurisdiction for an order requiring the property owner and/or occupant thereof to permit the city forester or those designated by him to enter upon such private property for the purpose of removing or abating the public nuisance, and further requiring such property owner and/or occupant to cease and desist from interfering with such removal or abatement.

(g) Any work contracted by the city forester for the removal or abatement of public nuisances shall be submitted for bids and approved by the city council.

(h) Upon completion of the abatement or removal of the public nuisance, the city forester shall certify the cost of the removal of the public nuisance. The owner or other persons to whom the notice was directed shall be notified by mail of the removal or abatement, the cost incurred for such work, and a statement that the cost of the work must be paid within 30 days or cost incurred will be assessed against the owner's property at a regular meeting of council to be held not sooner than 30 days after the date of notice.

(i) It shall be the duty of the owner of the property or other person to whom notice was directed to pay the cost of such removal within 30 days after the date of mailing of the notice of completion, and in case of his failure to do so, the city shall have the right to make assessment by ordinance against any property for the purpose of collection in the same manner as general taxes are collected.

(Code 1979, § 12.16.150)

Sec. 14-115. Enforcement; interference with city forester.

No person shall prevent, delay, or interfere with the city forester or any of his assistants in the execution of enforcement of this article; provided, however, that nothing in this section shall be construed as an attempt to prohibit a public hearing or any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(Code 1979, § 12.16.160)

Sec. 14-116. Violation.

Any person who violates this article shall be subject to the penalties for such violation in addition to the appraised value of the tree. The appraisal shall be performed by a state certified forester.

(Code 1979, § 12.16.170)

Secs. 14-117--14-140. Reserved.

## **ARTICLE V. WEEDS AND PLANT GROWTH**

### **Sec. 14-141. 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:

*Weed* means all grasses, annual plants and vegetation other than trees or shrubs, but does not include cultivated flowers or gardens.

(Code 1979, § 15.08.010)

**Sec. 14-142. Plant growth limited; weeds prohibited.**

All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited.

(Code 1979, § 15.08.010)

**Sec. 14-143. Enforcement.**

Upon failure of the owner or agent having charge of a property to cut and destroy weeds as required by section 14-142, any duly authorized employee of the city or contractor hired by the city shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon.

(Code 1979, § 15.08.010)

**Sec. 14-144. Abatement costs.**

The costs of such removal shall be paid by the owner or agent responsible for the property or, if unpaid, shall be placed upon the property as a lien.

(Code 1979, § 15.08.010)