

City of Otsego – Tree Ordinance

ARTICLE III. TREES*

***State law references:** Planting of trees along highways, MCL 247.231 et seq., MSA 9.351 et seq.; care of trees and shrubs along highways, MCL 247.241 et seq., MSA 9.361 et seq.; obnoxious plants and trees, MCL 124.151 et seq., MSA 12.270(1) et seq.

DIVISION 1. GENERALLY

Sec. 82-61. 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:

Large trees means those attaining a height of 45 feet or more.

Medium trees means those attaining a height of 30 to 45 feet.

Municipal arborist means the department of public works superintendent or his appointee, who is the qualified designated official of the city assigned to carry out the enforcement of this article.

Park includes all public parks having individual names.

Park and street trees department means the department of public works, under whose jurisdiction park and street trees fall.

Principal thoroughfare means any street in the city.

Property line means the outer edge of a street or highway.

Property owner means the person owning such property as shown by the city tax records.

Public places includes all grounds owned by the city.

Public trees includes all shade and ornamental trees growing on any street right-of-way, public park or other public place.

Small trees means those attaining the height of 20 to 30 feet.

Street and highway mean 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.

Tree lawn 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.

(Code 1977, § 4.301)

Cross references: Definitions generally, § 1-2.

Sec. 82-62. Tree commission.

(a) There shall be created a commission to be known and designated as the City Tree Commission. The tree commission shall be composed of the city manager, the superintendent of the department of public works, and the assistant superintendent of the department of public works.

(b) The duties of the city tree commission shall be to:

(1) Study the problems and determine the needs of the city in connection with its tree planting program.

(2) Recommend to the city commission the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks as are designated.

(3) Assist the city commission and citizens in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the trees are on private or public property, and make recommendations to the city commission as to desirable legislation concerning the tree program and activities for the city.

(Code 1977, § 4.302)

Cross references: Boards and commissions, § 2-91 et seq.

Sec. 82-63. Powers and duties of municipal arborist.

(a) The municipal arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites. The municipal arborist shall have the authority to enforce the rules and regulations of the arboricultural specifications and standards of practice governing the planting, maintenance, removal, pruning and bracing of trees on the streets or other public sites in the city, and shall direct, regulate and control the planting, maintenance and removal of all trees growing in any public area of the city.

(b) The municipal arborist shall cause the provisions of this article to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by him.

(Code 1977, §§ 4.303, 4.304(1))

Sec. 82-64. Master street tree plan.

(a) The city tree commission shall have the authority to formulate a master street plan with the advice, a hearing, and approval of the city commission. The master street tree plan shall specify the species of tree to be planted on each of the streets or other public sites of the city. From and after the effective date of the master street tree plan, or any amendment thereof, all planting shall conform thereto.

(b) The municipal arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the city.

(c) The city tree commission, with the approval of the city commission, shall have the authority to amend or add to the master street tree plan at any time that circumstances make it advisable.

(Code 1977, § 4.304(4))

Sec. 82-65. Violations designated municipal civil infraction.

A person who violates any provision of sections 82-66 through 82-68 is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 2-216. Repeat offenses under sections 82-66 through 82-68 shall be subject to increased fines as set forth in section 2-216.

(Code 1977, § 4.309)

Sec. 82-66. Pruning of trees adjacent to street or sidewalk.

(a) *Duty of property owner; minimum clearance.* It shall be the duty of any person owning or occupying real property bordering on any street upon which property there may be trees, other than the city's public trees, to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight feet over sidewalks, and 14 feet over all streets.

(b) *Order to prune.* Should any person owning real property on any street fail to prune trees as provided in subsection (a) of this section, the municipal arborist shall order such person, within seven days after receipt of written notice, to so prune the trees.

(c) *Service of order.* The order required in subsection (b) of this section shall be served by sending a copy of the order to the last known address of the property owner by certified mail.

(d) *Failure to comply with order.* When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the city to prune such trees, and the exact cost thereof shall be billed to the owner, and, if not paid within 30 days, shall be assessed to the owner as provided by law in the case of special assessments.

(Code 1977, § 4.306)

Cross references: Procedure where expense is chargeable to a single premises, § 62-11.

Sec. 82-67. Abuse or mutilation of public trees.

Unless specifically authorized by the municipal arborist, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

(Code 1977, § 4.307)

Sec. 82-68. Interference with municipal arborist.

No person shall hinder, prevent, delay or interfere with the municipal arborist or any of his assistants while engaged in carrying out the execution of enforcement of this article; provided, however, that nothing in this section shall be construed as an attempt to prohibit the pursuit of 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 1977, § 4.308)
Secs. 82-69--82-90. Reserved.

DIVISION 2. PERMIT FOR WORK ON PUBLIC TREES

Sec. 82-91. Permit required for planting, removal, pruning or other work.

No person shall plant, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipally owned property without first filing an application and procuring a permit from the municipal arborist or other specified municipal authority. The person receiving the permit shall abide by the conditions set forth in the permit and the arboricultural specifications and standards of practice adopted by the municipal arborist.
(Code 1977, § 4.305(1)(a))

Sec. 82-92. Application.

(a) Applications for permits under this division must be made at the city hall not less than 48 hours in advance of the time the work is to be done.

(b) The application required by this section shall include the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the municipal arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

(Code 1977, § 4.305(1)(b), (2)(a))

Sec. 82-93. Issuance; duration; conditions.

(a) The municipal arborist shall issue the permit provided for in this division if, in his judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(b) The municipal arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this division.

(Code 1977, §§ 4.304(3), 4.305(1)(c))

Sec. 82-94. Approved species for street tree planting.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the city tree commission. This list is subject to amendment by action of the city tree commission.

TABLE INSET:

Small Trees	Medium Trees	Large Trees
Flowering Crabapple (sp)	Honey Locust	Bur Oak

Flowering Pecan	Pin Oak	Hackberry
Redbud	English Oak	Hybrid Elm
Flowering Pear (Bradford)	Chinaberry	London Plane Tree
Common Apricot	Kentucky Coffeetree	American Sycamore
Hawthorn (sp)	Red Mulberry (Male)	Red Oak
Purple-Leaf Plum	Golden Raintree	Black Walnut
	Japanese Pagoda	Green Ash
	Bald Cypress	Cottonwood (Cottonless)
	Black Cherry	Pecan
	Ohio Buckeye	Basswood
	Sweet Gum	

(Code 1977, § 4.305(3))

Sec. 82-95. Inspections; notification of completion of work.

(a) The municipal arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this division.

(b) Notice of completion shall be given within five days after the work has been completed in order that the municipal arborist can inspect the work to ensure compliance with the conditions set forth in the permit.

(Code 1977, §§ 4.304(2), 4.205(1)(d))

Sec. 82-96. Improper planting.

Whenever any tree shall be planted or set out in conflict with the provisions of this division, it shall be lawful for the municipal arborist to remove or cause removal of the tree, and the exact cost thereof shall be billed to the owner, and, if not paid within 30

days, shall be assessed to the owner as provided by law in the case of special assessments.

(Code 1977, § 4.305(2)(b))

Cross references: Procedure where expense is chargeable to a single premises, § 62-11.