

35.010

**CITY FORESTRY COMMISSION
TREE PROTECTION ORDINANCE
CITY OF GAYLORD, MICHIGAN
ord. eff. Jan. 30, 1994**

An Ordinance creating a Forestry Commission; regulating the operations of said Commission, providing definitions, regulating the planting, care and removal of street trees and park trees; providing for the pruning and removal of stumps; prohibiting interference with the Forestry Commission; requiring licensing and bond; providing for review; providing penalties; providing for recovery of value of lost park trees or street trees; preventing planting of certain trees on private property; severability clause and effective date.

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Sec. 1. PURPOSE AND DECLARATION

Rapid growth, the spread of development, and increasing demands upon natural resources have the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreation and economic assets to existing and future residents of the City of Gaylord. Specifically, the City Council finds (1) that woodland growth protects public health through the absorption of air pollutants and contamination, through the reduction of excessive noise and mental and physical damage related to noise pollution, and through its cooling effect in the summer months, and insulating effects in the winter; (2) that woodlands provide for public safety through the prevention of erosion, siltation, and flooding; and (3) that trees and woodland growth are an essential component of the general welfare of the City of Gaylord by maintaining play areas for children, natural beauty, recreation and an irreplaceable heritage for existing and future City residents.

Therefore, the purposes of this Ordinance are:

- A. To provide for the protection, preservation, proper maintenance and use of trees and woodlands located in this City in order to minimize disturbance to them and to prevent damage from erosion and destruction of the natural habitat;
- B. To protect the woodlands (including trees and other forms of vegetation) of this City for their economic support of local property values when allowed to remain uncleared and/or harvested and for

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their natural beauty, wilderness character, or geological, ecological, or historical significance.

- C. To provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of this City.
- D. To encourage reforestation.

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Sec. 2. DEFINITIONS

- A. **Large Trees:** Trees obtaining a height of fifty (50) feet or more.
- B. **Medium Trees:** Trees obtaining a height of thirty (30) feet to fifty (50) feet.
- C. **Park Trees:** Trees, shrubs, bushes and all other woody vegetation in public parks, on public property, and on all areas owned by the City or to which the public has free access as a park.
- D. **Person:** An individual, partnership, corporation, association or other legal entity.
- E. **Small Trees:** Trees obtaining a height of fifteen (15) feet to thirty (30) feet.
- F. **Street Trees:** Trees, shrubs, bushes and all other woody vegetation on road right-of-way.
- G. **Tree:** Any self-supporting, woody plant of a species which normally grows to an overall height of fifteen (15) feet or more.

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Sec. 3. CREATION AND ESTABLISHMENT OF A CITY FORESTRY COMMISSION

There is hereby created and established a City Forestry Commission for the City of Gaylord which shall consist of three (3) members, one such member to be a member of the City Council appointed by the Mayor with the approval of the City Council; one such member to be a citizen of the City appointed by the Mayor with the approval of the City Council; and third member to be the City Manager or his designee. The City Manager may appoint to the Commission a liaison from the Department of Public Works.

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35.014 Sec. 4. TERM OF OFFICE

Members of the City Forestry Commission shall serve until their successor has been appointed.

35.015 Sec. 5. COMPENSATION

Members of the Commission shall serve without compensation.

35.016 Sec. 6. DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Commission to study, investigate, counsel, develop, update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street and park trees. Such plan will be presented annually to the City Council, and, upon its acceptance and approval, shall constitute the official Comprehensive Forestry Plan of the City of Gaylord.

The Commission, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

35.017 Sec. 7. OPERATION

The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

35.018 Sec. 8. SPECIES PERMITTED

Species permitted are those identified in STREET TREE FACTSHEETS, a publication of the Municipal Tree Reforestation Program and the Directory of Landscape Tree Cultivars Project, as appropriate for the site selected.

35.019 Sec. 9. SPECIES PROHIBITED

It shall be unlawful for any property owner to plant anywhere in the City of Gaylord, trees that are known to be obnoxious and a detriment to wastewater systems, sidewalks and curbing, namely, Poplar (all species), Acer Negundo (Box Elder), Willows (all species), and Black Locust.

35.020 Sec. 10. SPACING

No trees may be planted closer together than the following, except as approved in writing by the City Forestry Commission:

Small Trees - Thirty (30) Feet
Medium Trees - Forty (40) Feet
Large Trees - Fifty (50) Feet

35.021 Sec. 11. DISTANCE FROM CURB AND SIDEWALK

No trees may be planted closer to any curb or sidewalk than the following:

Small Trees - Two (2) Feet
Medium Trees - Three (3) Feet
Large Trees - Four (4) Feet

35.022 Sec. 12. DISTANCE FROM STREET CORNER AND FIRE HYDRANTS

No street tree shall be planted closer than thirty-five (35) feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet to any fire hydrant.

35.023 Sec. 13. UTILITIES - STREET TREES

No Street Trees other than those species identified as appropriate in the STREET TREE FACTSHEETS may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

35.024 Sec. 14. STREET TREE AND PARK TREE CARE

The City shall have the right to plant, prune, maintain and remove street trees, park trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, right-of-ways and public grounds, as may be necessary to ensure public safety or to preserve and enhance the symmetry and beauty of such public grounds. The City Forestry Commission may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature or location is injurious or a threat to wastewater system, electrical power lines, gas lines, water lines, cable lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section shall not prohibit the planting of street trees by adjacent property owners provided that the species and location of said trees is in accordance with the provisions of this Ordinance.

35.025 Sec. 15. TREE TOPPING

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the City Forestry Commission. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter 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 the provisions of this Section by a determination of the City Forestry Commission.

35.026 Sec. 16. PRUNING, CORNER CLEARANCE

Every owner of any tree overhanging any street right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The City 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 the visibility of any traffic control device or sign.

35.027 Sec. 17. REMOVAL OF STUMPS

All stumps of Street Trees and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

35.028 Sec. 18. INTERFERENCE WITH CITY FORESTRY COMMISSION

It shall be unlawful for any person to prevent, delay, or interfere with the City Forestry Commission, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of Street Trees, Park Trees or trees on public grounds, as authorized in this Ordinance.

35.029 Sec. 19. RECOVERY OF VALUE OF LOST STREET TREES OR PARK TREES

A. Whenever the City Forestry Commission shall determine that any

Street Tree or Park Tree has been impaired, damaged or broken in a manner which will cause immediate or future removal of the tree and that such removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the Commission shall have the knowledge of the person causing said damage, then the Board 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, or, at the election of the Commission, by appraisal.

- B. Whenever the City Forestry Commission shall determine that any Street Tree or Park Tree has been severed, destroyed or removed, and that such severing, destruction or removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the Commission shall have the knowledge of the person causing said damage, then the Commission 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, or, at the election of the Commission, by appraisal.
- C. This Section shall not be construed in such a way that the value received by the City shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the City Forestry Commission, such replacement tree to be not less than three (3) inches in diameter measured at the height of six (6) inches above the ground. The City Forestry Commission shall not be restricted in its choice as to the replacement planting site.
- D. It shall be the duty of the City Police Department, having knowledge of any such damage or destruction to Street Trees or Park Trees and having knowledge of the person or persons causing said damage to immediately report this information to a City Forestry Commission member.
- E. It shall be the duty of the City Forestry Commission to notify the City Council of any damage to Street Trees or Park Trees for which recovery could be sought under the provisions of this Section.

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Sec. 20. ARBORIST'S LICENSE, BOND AND PERMIT

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing Street Trees or Park Trees within the City without first applying for and procuring a permit. The permit

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fee shall be set annually by the City Forestry Commission and paid in advance; provided, however, that no permit shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence with the City Clerk of possession of liability insurance in the minimum amounts of \$500,000 for bodily injury and \$500,000 property damages resulting from the pursuit of such endeavors as herein described. After receipt of the required permit fee and acceptable insurance information, the permit shall be issued by the City Clerk.

35.031 Sec. 21. APPEAL TO CITY COUNCIL

Any person may appeal from any ruling or order of the City Forestry Commission to the City Council, who shall hear the matter and affirm, reverse or amend the decision of the City Forestry Commission.

35.032 Sec. 22. PENALTY

Any person violating any provision of this Ordinance shall be subject to all penalties provided in Section 1104 of this Code.

35.033 Sec. 23. SEVERABILITY

If any Section, Subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions of this Ordinance.

35.034 Sec. 24. REPEAL, EFFECTIVE DATE AND ADOPTION

- A. **Repeal.** All regulatory provisions contained in other City ordinance, which are inconsistent with the provisions of this ordinance, are hereby repealed.
- B. **Effective Date.** This ordinance shall become effective on January 30, 1994.
- C. **Adoption.** This ordinance was adopted by the City Council of the City of Gaylord at a meeting thereof held January 10, 1994.