

Chapter 38 VEGETATION*

*Charter references: Powers re trees and shrubs, § 3.1(b)(3)(m).

Cross references: Injury to plants and trees in parks, § 25-2.

State law references: Care of trees and shrubs, MCL 247.241 et seq., MSA 9.361 et seq.

Sec. 38-1. Definitions.

Sec. 38-2. Superintendent of parks.

Sec. 38-3. Planting trees; permit required; specifications; prohibited varieties.

Sec. 38-4. Prohibited acts.

Sec. 38-5. Protection of trees.

Sec. 38-6. Trees extending into public ways.

Sec. 38-7. Gas pipes, mains; leaks, remedy.

Sec. 38-8. Removal of trees; conditions, authority to impose.

Sec. 38-9. Restrictions on excavations.

Sec. 38-10. Prohibitions on harmful substances, painting, burning, etc.

Sec. 38-11. Chains, cables, wires prohibited.

Sec. 38-12. Prohibition on impeding passage of air, water.

Sec. 38-13. Electric wires.

Sec. 38-14. Interference with park department employees.

Sec. 38-15. Enforcement, complaints, disputes.

Sec. 38-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Public highway shall mean all the land lying between private property lines on either side of all public streets and places.

Tree shall not be construed to include shrubs which do not grow higher than fifteen (15) feet.

(Code 1962, § 7-204)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 38-2. Superintendent of parks.

(a) The city manager shall appoint, subject to the approval of the city council, a qualified person for the position of superintendent of parks for the city.

(b) The superintendent of parks, under the authority of the city manager, shall have jurisdiction, authority, control, supervision and direction over all trees, plants and shrubs planted or growing in or upon the public ways, and public places of the city, and the planting, removal, care and maintenance and protection thereof.

(c) It shall be the duty of the superintendent of parks 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. The superintendent of parks shall also have power to enter any private grounds in the city and to spray or otherwise treat or cause or

order to be sprayed or otherwise treat any tree or shrub or plant infected or infested by any parasite or insect pest, when it shall be necessary in his/her opinion so to do, so as to prevent danger therefrom to trees and shrubs planted in the public streets or other public places; and whenever in the opinion of the superintendent of parks trimming, treatment or removal of any such tree or shrub located on private grounds is desirable and necessary for public welfare and safety, the superintendent shall have power to trim, treat or remove any such tree or shrub or cause or order the same to be trimmed, treated or removed. The cost of the removal of the tree or trees by the superintendent of parks shall be a charge upon the real property. Such cost shall be certified by the superintendent of parks and shall thereupon become and be a lien upon such property, and shall be included in the next tax bill rendered to the owner or owners thereof unless paid before and shall be collected in the same manner as other taxes against such property. Notice of removal under this section shall be served personally at least ten (10) days before such removal, on the owner or agent of the property or abutting property unless in the opinion of the superintendent of parks immediate removal be necessary for public safety.

(d) The superintendent of parks shall have full power and authority to carry out the provisions of this chapter.

(Code 1962, §§ 7-202, 7-203)

Cross references: Administration, Ch. 2.

Sec. 38-3. Planting trees; permit required; specifications; prohibited varieties.

No shade or ornamental tree, plant or shrub shall be planted in any of the public highways of the city until the superintendent of parks shall have first approved the kind, size and variety of the same, designated the location therefor and granted a permit for the planting of same, provided that trees shall be planted not less than forty (40) feet apart, not less than three and one-half (3 1/2) feet from any sidewalk, and not less than three and one-half (3 1/2) feet from any driveway, and provided, further, that if in the opinion of the superintendent such spacing is undesirable, impossible, or impractical, then, in such event, the superintendent may allow a variation of spacing and shall so state on the permit together with the reason therefor. It is further provided that no varieties of soft maple, willow, poplar, catalpa, box-elder, black locust, elm, ailanthus, fruit trees or other weak-wooded trees shall be set out hereafter on the public highways, nor any other tree unless it is free from infectious disease and has a diameter of one and one-half inches or over one foot above the ground level. Where deemed advisable planting of trees will be done by city employees under the direction of the superintendent of parks.

(Code 1962, § 7-205)

Sec. 38-4. Prohibited acts.

(a) No person shall, without the written permit of the superintendent of parks, remove, destroy, break, deface, trim (except minor), brace, move, do surgery work, mutilate, kill, girdle, or in any way injure or interfere with any tree, plant or shrub in any highway, park or boulevard of the city provided however, that nothing in this section shall be construed so as to apply to the removal, under the direction of the city manager, of any root, tree, shrub, or plant or parts thereof when such removal shall be necessary for the construction and/or maintenance of any sidewalks, sewer or public improvement.

(b) No person shall attach any rope, wire, cable, sign, card or poster or any other article to a tree or its guard in a public highway without a written permit from the superintendent

of parks, nor shall any person pour or deposit salt or brine or other injurious material upon any public highway in such manner as to injure any tree or shrub planted or growing thereon; nor shall any person hitch, tie, fasten or secure any horse, or other animal to any tree or allow the animal to stand so it can injure any tree, plant or shrub.

(Code 1962, § 7-206)

Sec. 38-5. Protection of trees.

In the erection, alteration, repair or removal of any building or structure, the owner or owners thereof shall place or cause to be placed such guards around all nearby trees on the public highway, as will effectually prevent injury to such trees.

(Code 1962, § 7-207)

Sec. 38-6. Trees extending into public ways.

Any tree not growing on a public alley, street or highway, but so located as to extend its branches over a public alley, street or highway, shall be so trimmed by the owners of the property on which the tree stands or by his agents that there will be a clear height of sixteen (16) feet above the surface of the street or highway unobstructed by branches, and such owner or the owner's agents shall remove all dead branches, and stubs on such tree or trees which are or may become a menace to travelers on the public highway, streets or alleys of the city. Any plantings, trees, and/or shrubs now and hereafter standing on public or private property which are a hazard to public safety and/or welfare in the opinion of the chief of police shall be removed.

(Code 1962, § 7-208)

Sec. 38-7. Gas pipes, mains; leaks, remedy.

No person owning, maintaining or operating any gas pipes or mains laid beneath the surface of any street, alley or public place in the city shall permit any leaks to exist in such pipe or main within forty (40) feet of any tree now or hereafter growing in any street or public place in the city, and if leaks exist or occur in such pipe or mains, it shall be the duty of the person owning or operating such defective pipes or mains to repair the same immediately, and stop such leak in a manner so as to prevent a recurrence of the same and compensate the city for the removal and replacement of the dead tree or trees caused by such leaks.

(Code 1962, § 7-209)

Sec. 38-8. Removal of trees; conditions, authority to impose.

As a condition to any permit to remove any tree or shrub as provided in section 38-4(a), the superintendent of parks may require that the permittee plant another approved tree or shrub in the place of the one removed, and failure, refusal or neglect to plant another tree or shrub of the type, size and in the location specified in the permit within twelve (12) months from the date of the issuance of the permit shall be a violation of this chapter.

(Code 1962, § 7-210)

Sec. 38-9. Restrictions on excavations.

No person shall excavate any ditches, tunnels or trenches within a radius of six (6) feet of any tree or shrub without a written permit from the superintendent of parks.

(Code 1962, § 7-211)

Sec. 38-10. Prohibitions on harmful substances, painting, burning, etc.

No person shall cause, authorize or permit any salt, brine water, oil, liquid dye or other substances deleterious to tree and shrub life to lie, leak, flow, or drip into the soil at the base of any tree or shrub or on to any sidewalk, road, pavement or gutter in such position that the runoff of same may enter the soil area at the base of any tree or shrub; nor shall any person deface with paint, whitewash or other materials, trees or shrubs, in any public highway or place; nor shall any person set fire or permit any fire to burn where such fire or heat thereof will injure any portion of any tree or shrub in any highway, park or public place.
(Code 1962, § 7-212)

Sec. 38-11. Chains, cables, wires prohibited.

No person shall fasten chains, cables or wire about the trunk of any tree in the public highways, streets or places of the city, and the use of such trees as anchors is hereby prohibited.
(Code 1962, § 7-213)

Sec. 38-12. Prohibition on impeding passage of air, water.

No person shall without the written permit of the superintendent of parks deposit, place or maintain upon the surface of any street, or public highway of the city, any stone, brick, concrete, cement, or other material which shall impede the free passage of water and air to the roots of any tree now or hereafter growing in such street or public highway; provided that nothing herein contained shall be construed to require the city in the construction of sidewalks or pavements to leave any open space around the trunk of any tree when such tree is planted or is growing within the lines now or hereafter established as a sidewalk line, but provided further, that if any tree grows within a distance of less than one foot from the inner or outer established sidewalk lines, then in that event the sidewalk shall be so constructed as to leave an open space of one foot around the trunk of such tree.
(Code 1962, § 7-214)

Sec. 38-13. Electric wires.

(a) No person shall attach any electric wire, insulation or other device for holding electric wire, to any tree now or hereafter growing in any street or public highway under the control of the city.

(b) Every person having any wire or wires charged with electricity of more than six hundred (600) volts shall securely fasten the same where reasonably practical so that such wire or wires shall not come in contact with any tree in any street or public highway in the city.
(Code 1962, § 7-215)

Sec. 38-14. Interference with park department employees.

No person shall hinder, prevent or interfere with the agents or employees of the park department while engaged in carrying out the provisions of this chapter.
(Code 1962, § 7-216)

Cross references: Offenses against public administration, § 24-17 et seq.

Sec. 38-15. Enforcement, complaints, disputes.

It shall be the duty of the superintendent of parks to enforce the provisions of this chapter, and all complaints as to the violation of this chapter shall be presented in writing to the city attorney and shall be prosecuted in the name of the city. If at any time a bona

if a dispute arises or shall exist relative to or under the provisions of this chapter, such dispute must first be submitted to the city manager who shall exert his/her best efforts to compromise same.
(Code 1962, § 7-217)