

City of Romeo – Tree Ordinance

ARTICLE IV. TREES*

***State law references:** Municipal forests, MCL 324.52701 et seq.; destruction of trees and shrubs, MCL 750.382.

DIVISION 1. GENERALLY

Sec. 14-111. 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:

Bond means cash, certified check or surety bond.

Contractor means any person engaged in the business of planting, removing, cutting, trimming, pruning, spraying or otherwise treating trees.

Park means any land or area owned by the village to which the public has free access for any use thereon permitted by law.

Parkway means all land located within the right-of-way of any public street, alley or roadway.

Private tree means any tree existing or which may exist on land owned by a person which is not part of any governmental unit.

Prohibited species means any specie of tree, bush or shrub which is listed on the schedule of prohibited species attached to Ord. No. 460 or as provided in section 14-118 which may promote disease or insect damage to existing plant materials of the village or village-owned lands.

Public tree means any tree existing or which may exist on any land owned by the village, any park, any parkway, any roadway or any public street.

Public utility means any franchised entity owning or operating a pole, line, pipe, wire or conduit for the transmission of electricity, gas, telephone, water, sewer, or cable television service.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to the extent that the natural canopy is removed and the tree is disfigured.

(Code 1993, § 35.352)

Cross references: Definitions generally, § 1-2.

Sec. 14-112. Pruning or removal by utilities.

No public utility company under franchise agreement with the village shall cut, prune, top or remove any tree, shrub or bush within the village or on property owned by the

village, unless the utility company owns the easement rights of the proposed work area. Easement rights may not be delegated by one public utility company to another without the prior written permission of the village. The public utilities must show that all cutting, pruning, or topping of trees, shrubs or bushes is performed under the guidelines and regulations set down by the National Arborist Association for the health and beauty of the trees. No street trees other than species listed as small trees as provided in this article may be planted under or within ten lateral feet of any overhead utility wire or over any underground water line, sewer line, transmission line or other utility line within five lateral feet.

(Code 1993, § 35.359)

Cross references: Utilities, ch. 44.

Sec. 14-113. Arborist's license and bond.

(a) It shall be unlawful for any person to engage in the business or occupation of pruning, treating or removing street or park trees within the village without first applying for and obtaining a license as provided in this section.

(b) The license fee shall be set by resolution of the village council from time to time. No license fee shall be required of any public utility company under a franchise agreement with the village or a village employee doing such work, but all such work shall be guided by the regulations set down by the National Arborist Association for the preservation of trees, which regulations are incorporated by reference into this article and made a part of this article.

(c) No license shall be granted until presentation of a bond and necessary insurance certificates in such form as to protect the village and any person in the village from damage to person or property resulting from the applicant's negligence. The bond shall equal the amount of the deductible on the applicant's existing liability insurance coverage, but in no event shall it be less than the amounts set by resolution of the village council from time to time.

(d) No license shall be granted unless the applicant provides proof of workers compensation insurance coverage for all employees who are required to be covered by the state workers disability compensation act. A condition of every annual license issued to an applicant shall be that the applicant must remove from the village or village-owned property all tree trunks, limbs, branches and debris of any kind resulting from the trimming or removal of each tree within 48 hours of the actual cutting of the tree and that no tree trunks, limbs, branches or debris of any kind shall block, cover or impede any public sidewalk or street after the end of work on any day. The same care shall also be taken by public utilities concerning the trimming of trees on private property within the village.

(Code 1993, § 35.360)

Sec. 14-114. Planting.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Large tree means any tree which may obtain a mature height of 50 feet or more.

Medium tree means any tree which may obtain a mature height of 30 feet but less than 50 feet.

Small tree means any tree which may obtain a mature height of less than 30 feet.

(b) *Planting of public trees.* No public tree on the schedule of prohibited species of trees shall be planted by any person on village-owned property. The village shall pay the cost of planting any public tree.

(c) *Restrictions on planting.* The following constitute restrictions on where any public or private tree may be planted. The village tree board, for good cause shown, may waive any of these requirements upon the written request of the person desiring the waiver:

(1) No private tree shall be planted within six feet of any street right-of-way line as measured from the center of the tree trunk.

(2) Small trees shall not be planted within five lateral feet of any underground line of a public utility or within ten lateral feet of any overhead utility line and no closer than 30 feet together.

(3) Medium trees shall not be planted within ten lateral feet of any overhead utility wires or over any underground public utility lines within five lateral feet and no closer than 40 feet together.

(4) Large trees shall not be planted within 15 lateral feet of any overhead utility wires or over an underground public utility line within ten lateral feet and no closer than 50 feet together.

(Code 1993, § 35.361)

Sec. 14-115. Maintenance and protection.

(a) No person shall break, injure, mutilate, kill, destroy, set fire to or permit a fire to be set to any public tree or shrub.

(b) No person shall knowingly cause or permit the seepage, drainage, injection or emptying of any chemicals or other materials harmful or injurious to a tree on, into or within 20 feet of any tree in the village. Normal treatment of lawns with weed killer and lawn fertilizer shall be exempt from this subsection, unless the weed killer or lawn fertilizer used is contained on a list of prohibited chemicals published by any agency of the governments of the United States or the state.

(c) No person shall use any public tree as an anchor. No person shall fasten or hang any material of any kind to any public tree. No person shall attach electrical wire or insulation to any public tree. However, this shall not apply to residential Christmas holiday decorations or when special permission is given to a residential owner by the village tree board. Such information as species size, location and condition shall be used in passing on individual requests.

(d) The village tree board shall issue annual permits for public utilities to trim and remove trees within the village in such a manner as to keep the overhead lines of a public utility safe and accessible, provided that the utility companies follow the guidelines and regulations of the National Arborist Association on all public and private properties within the village and on village-owned properties. Any damage to the trees which may result shall be the sole responsibility of the utility company causing the damage,

including but not necessarily limited to the obligation to remove and replace the damaged tree. The topping of any public trees by any utility or public employee is prohibited without the prior written authorization of the village tree board.

(e) No excavation or driveway may be placed within six feet of any public tree without first protecting the tree by the construction of a frame box around its trunk. The minimum requirements of such a frame box guard shall be established by the village tree board. These requirements shall be given to any person who applies for a permit to make such an excavation or build such a driveway.

(f) No person shall place in any street right-of-way or any parkway any sand, stone, concrete, brick or material of any other kind which will in any way impede the full and free passage of air, water or fertilizer to the roots of any public tree.

(Code 1993, § 35.362)

Sec. 14-116. Removal.

(a) No person shall remove or cut down a public tree without written authorization from the village tree board. Any person who violates this subsection shall be required, in addition to any other penalties imposed by this article or any other law, to replace all public trees to be removed or cut down at the violator's expense.

(b) The village may remove or cause to be removed any public tree or part thereof which is in an unsafe condition or which is affected with any injurious fungus, insect or other pest, beyond the help of treatment. All stumps of street 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.

(c) Every owner of any tree overhanging any street or right-of-way within the village shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of at least eight feet above the surface of the street or sidewalk. The owner shall remove all dead, diseased or dangerous trees or broken and decayed limbs which constitute a menace to the safety of the public.

(d) The village shall have the right to require the pruning of any tree or shrub, upon written notification to the property owner, when it interferes with the visibility of any traffic control device or sign or poses a hazard to the public. Upon written notification by the village to the property owner, the work or removal must be completed by the property owner within 30 days from the notification, or the village shall have the authority to perform such services to the trees and charge the cost of such work to the property owner. The sum, if not paid, shall constitute and remain a lien upon the property of the same character and effect as the lien created by general law for state, county and village taxes, and the lands upon which the lien attaches shall be subject to sale therefor the same as are lands upon which delinquent village property taxes constitute a lien, or such sum may be collected pursuant to an action at law.

(Code 1993, § 35.363)

Sec. 14-117. Interference with village tree board.

It shall be unlawful for any person to prevent, delay or interfere with the village tree board or any of its agents while investigating the condition of any village-owned trees or to investigate a tree condition that may pose a hazard to the public.
(Code 1993, § 35.364)

Sec. 14-118. Prohibited species.

(a) The following list constitutes the official street tree species not permitted for the village or on property owned by the village due to their possible spread of disease or destruction by insects that inhabit these trees:

- (1) Elm.
- (2) Box elder.
- (3) Poplar.
- (4) Willows.
- (5) Tree of heaven.
- (6) Catalpa.

(b) The list in subsection (a) of this section refers to new planting or replanting of trees within the village.

(Code 1993, § 35.365)

Sec. 14-119. Site plans.

When the development of any property requiring site plan approval occurs, the village planning commission shall review landscaping plans and may require trees to be planted on or near the site consistent with the elements of the adopted master plan and with the comprehensive tree management plan provided by this article.

(Code 1993, § 35.366)

Secs. 14-120--14-140. Reserved.

DIVISION 2. TREE BOARD*

***Cross references:** Boards and commissions, § 2-301 et seq.

Sec. 14-141. Created and established.

There is hereby created and established a village tree board which shall consist of five members who shall be residents of the village and who shall be appointed by the village president, with the advice and consent of the village council.

(Code 1993, § 35.353)

Sec. 14-142. Terms of office; vacancies; compensation.

(a) The terms of the five persons appointed to the village tree board shall be staggered and for three years each.

(b) If a vacancy shall occur during the term of any member, his successor shall be appointed by the village president, with the advice and consent of the village council, to fill the unexpired portion of the term wherein a vacancy exists.

(c) Members of the village tree board shall serve without compensation.

(Code 1993, § 35.354)

Sec. 14-143. Officers; rules of procedure.

(a) Annually the village tree board shall choose its officers, who shall serve until their successors are chosen.

(b) The village tree board shall adopt its own rules of procedure, and its meetings shall be conducted in accordance with the state open meetings act. Minutes of the meetings of the village tree board shall be taken, kept and filed with the village clerk for public inspection.

(c) A majority of the members of the village tree board shall constitute a quorum for the transaction of business. The concurring vote of at least three members of the village tree board shall be necessary to pass any resolution.

(Code 1993, § 35.356)

Sec. 14-144. Duties and responsibilities.

(a) The village tree board shall be responsible for the study and investigation of the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, parkways and other public areas.

(b) The village tree board shall develop and/or update, not less than annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, parkways and other public places.

(c) The village tree board shall present its plan annually to the village council, and, upon acceptance and approval of the plan by the village council, it shall constitute the official comprehensive tree plan for the village.

(d) The village tree board, when requested by the village council, shall consider, investigate, make findings, report, and make recommendations upon any special matter coming within the scope of its authority and work as provided in this article.

(Code 1993, § 35.355)

Sec. 14-145. Authority; appeal of decisions.

(a) The village tree board shall have control over all existing trees and those which may be planted in the future in any park, parkway or any other property owned by the village, subject to any limitations imposed by the constitutions of the United States and the state, the laws of the state, the laws governing general law villages, and the specific provisions of this article.

(b) The village council shall have the right to review the acts, conduct and decisions of the village tree board. Any person aggrieved by any ruling or order of the village tree board may appeal such ruling or order to the village council by filing a written claim of appeal with the village clerk within 21 days of the ruling or order appealed from. The

appeal shall be submitted to the village council at its next regular meeting following the filling of the appeal, and its decision shall be final.

(c) Except as otherwise provided in this article or as provided by any state or federal statute or regulation, the village tree board shall not exercise any authority or control over trees located on private property.

(Code 1993, § 35.357)

Sec. 14-146. Administration.

The village tree board shall have the power to administer this article by adhering to the recommended practices of the United States and the state departments of agriculture, all federal and state forestry and environmental regulations, and the practices of tree preservation which are generally accepted by qualified persons in the field of forestry and tree management. All rules and regulations adopted by the village tree board in the administration of this article shall be placed in writing, retained by the village clerk and made immediately available for review by any member of the public who requests them. Any person requesting copies of these rules or regulations may be required to pay a reasonable fee for their copying, provided that the fee is identical to the fee charged by the village for the copying of any other matter of public record.

(Code 1993, § 35.358)