

Chapter 98 VEGETATION

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ARTICLE I. IN GENERAL

Secs. 98-1--98-30. Reserved.

ARTICLE II. WEEDS

Sec. 98-31. Unlawful to permit noxious weeds.

It shall be unlawful for the owner or occupant or any person or persons, firm or corporation having charge of any lot or parcel of land within the City of South Lyon to permit or allow to grow thereon any weeds of any kind (including grasses and similar plants exceeding 12 inches in height) scattered among which are noxious weeds such as Canada thistles, dodders, mustards, wild carrot, bindweed, perennial sowthistles, hoary alyssum, ragweed, poison ivy, poison sumac, or any other plant or varieties of

plant which are recognized as inducing hay fever or other diseases, or being in any other way deleterious to the health or comfort of the community. The presence of such weeds upon any lot or parcel of land within the limits of the City of South Lyon is hereby declared to be a public nuisance.

(Code 1988, § 9.31)

Sec. 98-32. Duty to cut weeds.

It is hereby made the duty of the owner or occupant of land or any person or persons, firm or corporation having charge of any lands within the limits of the City of South Lyon upon which weeds, as described in section 98-31, are growing or standing, to cause to be cut or destroyed by spray all such weeds growing or standing on said premises during the first half of the month of May and during the last half of the month of September of each year, or more often if necessary to prevent them from going to seed. If any owner or occupant of land or any person or persons, firm, or corporation having charge of lands in this city shall knowingly suffer any weeds described in section 98-31 to grow upon said lands to a height of 12 inches or shall suffer the weeds to ripen so as to cause or endanger the spread thereof, he or they shall, upon conviction in any court of competent jurisdiction, be liable to the penalty prescribed in chapter 1.

(Code 1988, § 9.32)

Sec. 98-33. Duty of clerk to give notice.

(a) It is hereby made the duty of the city clerk to give general notice in the following manner to every owner or occupant of land and to every person or persons, firm or corporation having charge of any lands in this city wherein noxious weeds are growing, to cut and destroy the same, to wit: Notices shall be mailed to the owner of record of the property as the same shall appear in the records of the City of South Lyon, and similar notice shall also be published once in the official newspaper. These notices shall set forth in effect that all noxious weeds must be cut on or before a certain date, which date shall be fixed by the city clerk. The posting and publication of such notices shall take place at least ten days prior to the date upon which the weeds must be cut, and such notice may read as follows:

"To the owners or occupants or any person or persons, firm or corporation having charge of any lands in the City of South Lyon: Notice is hereby given that all noxious weeds growing on any land in the City of South Lyon, Oakland County, Michigan, must be cut down and destroyed on or before the _____ day of _____, A.D. 19_____.

Failure to comply with this notice on or before the date mentioned shall make the parties so failing liable for the costs of cutting same, at a charge of \$175.00 for the first hour and \$75.00 for each additional hour, to be levied and collected against the property in the manner provided by law.

South Lyon, Michigan

_____19_____
Clerk, City of South Lyon"

(b) In case the owner or occupant or the person or persons, firm or corporation having charge of any land in the City of South Lyon shall refuse or neglect to cut the weeds on or before the date stated in such notice, the City of South Lyon, through its employees, may enter upon the land and to cause all such noxious weeds to be cut down with as little damage to other vegetation as may be and to charge the cost thereof, together with ten percent of such cost to cover contingent expenses, against the owner or occupant of said premises and sunset the property itself. The minimum charge for such work on any

lot or parcel of land shall be not less than \$30.00. Nothing in this chapter shall apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley or rye.

(Code 1988, § 9.33)

Sec. 98-34. Cost to be charged against owner.

The city clerk shall keep a record of the cost of cutting the weeds upon each separate lot and parcel of land by the city, and shall notify the owner or occupant of the said premises by ordinary mail or otherwise, if the address of such owner or occupant be known, that the city has cut or caused to be cut and destroyed the weeds upon said premises in accordance with the provisions of this article, together with a statement of the amount due the city. If the cost and charges due the city for cutting and destroying weeds upon any lot or parcel of land in accordance with the provisions of this article shall not have been collected on or before December 31 of the year in which the expense was incurred by the city, the same shall be reported by the city clerk to the council to be collected by a special assessment, in accordance with the provisions of the Charter of the City of South Lyon and chapter 78.

(Code 1988, § 9.34)

Sec. 98-35. Violations and penalties.

In addition to the costs that may be assessed against a person pursuant to section 98-34, any person, firm, or corporation violating a provision of this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. of 11-28-94(26), § 1(9.35))

Secs. 98-36--98-60. Reserved.

ARTICLE III. TREES

DIVISION 1. GENERALLY

Sec. 98-61. Short title.

This article shall be known and cited as the municipal tree ordinance of the city.

(Ord. of 3-28-94(1), § 12.16.010)

Sec. 98-62. 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.

(Ord. of 3-28-94(1), § 12.16.020)

Sec. 98-63. 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. When not inconsistent with the context, words used in the present tense include the future, words in plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

City DPW superintendent means the designated official of the City of South Lyon, lying within the County of Oakland, State of Michigan, assigned to carry out the enforcement of this article.

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

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

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

Municipality means the City of South Lyon, lying within the County of Oakland, State of Michigan.

Park means 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.

Person means any person, firm, partnership, association, corporation, company, or organization of any kind.

Plants means 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 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 means all other grounds owned by the City of South Lyon, lying within the County of Oakland, State of Michigan, 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 means trees 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.

(Ord. of 3-28-94(1), § 12.16.030)

Sec. 98-64. 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.

(Ord. of 3-28-94(1), § 12.16.040)

Sec. 98-65. DPW superintendent.

Subject to the direction of the city council and the city manager, it shall be the duty of the DPW superintendent 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 measure 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.

(Ord. of 3-28-94(1), § 12.16.050)

Sec. 98-66. Loss of public trees; value recovery.

(a) Whenever the DPW superintendent 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 shall 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 DPW superintendent shall have knowledge of the person causing the damage, then the DPW superintendent 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 DPW superintendent, of not less than 2 1/2-inch trunk diameter measured at a height of six inches above the ground, nor shall the DPW superintendent 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 DPW superintendent for investigation.

(d) It shall be the duty of the DPW superintendent 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 DPW superintendent for future tree planting purposes notwithstanding the deduction of the removal cost of the damaged tree and replacement of the tree.

(f) The DPW superintendent 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.

(Ord. of 3-28-94(1), § 12.16.120)

Sec. 98-67. 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 DPW superintendent endangers the life, health, safety, or property of the public shall be declared a public nuisance.

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

(Ord. of 3-28-94(1), § 12.16.130)

Sec. 98-68. Enforcement; interference with DPW superintendent.

No person shall prevent, delay, or interfere with the DPW superintendent 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.

(Ord. of 3-28-94(1), § 12.16.140)

Sec. 98-69. Violations and penalties.

A violation of this article shall be deemed a municipal civil infraction.

(Ord. of 3-28-94(1), § 12.16.150; Ord. of 11-28-94(3), § 1)

Secs. 98-70--98-90. Reserved.

DIVISION 2. PERMIT

Sec. 98-91. Permits generally.

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

(Ord. of 3-28-94(1), § 12.16.060)

Sec. 98-92. Permit required--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 DPW superintendent shall have first approved the kind, size and variety of the same, designated the location thereof, and granted a permit in accordance with the provisions of section 98-91 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 DPW superintendent 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 this purpose.

(Ord. of 3-28-94(1), § 12.16.070)

Sec. 98-93. Same--Planting in new subdivision.

(a) *Plan and permit application.* The City of South Lyon requires street trees to be planted by the property owner, developer or subdivider on all street, parks and public places abutting lands henceforth developed and/or subdivided within the city. A proposed planting plan and permit application shall be submitted by the property owner, developer, or subdivider to the DPW superintendent for approval and issuance of a planting permit prior to final plat clearance by the city. The DPW superintendent 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) *Bond.* The DPW superintendent, upon approval of the proposed planting plan but prior to the issuance of a planting, may require the property owner to post bond with the city for an amount not less than \$10.00 for each tree required by the DPW

superintendent to be planted. Upon notification of planting completion to the DPW superintendent by the land owner, and certification as to satisfactory workmanship and completion of the tree planting, the DPW superintendent shall direct the city to release the bond.

(Ord. of 3-28-94(1), § 12.16.080)

Sec. 98-94. Same--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 DPW superintendent 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 specification and standards of practice in this article and on 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 DPW superintendent 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.

(Ord. of 3-28-94(1), § 12.16.090)

Sec. 98-95. Same--Certain acts.

No person shall, without first obtaining a written permit from the DPW superintendent:

- (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, 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.

(Ord. of 3-28-94(1), § 12.16.100)

Sec. 98-96. Nature of permit.

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.

(Ord. of 3-28-94(1), § 12.16.060(A))

Sec. 98-97. Enforceability.

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.

(Ord. of 3-28-94(1), § 12.16.060(B))

Sec. 98-98. Fees/costs.

No charge shall be made for the issuance of any permit unless it is determined necessary by the DPW superintendent, 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.

(Ord. of 3-28-94(1), § 12.16.060(C))

Sec. 98-99. Notice.

Notice of commencement and completion of work or other activity authorized by the permit shall be made to the DPW superintendent as stated on the permit issued.

(Ord. of 3-28-94(1), § 12.16.060(D))

Sec. 98-100. Condition precedent for removal of tree or shrub.

As a condition precedent to the issuance of a permit to remove any tree or shrub, the DPW superintendent may require the permit holder to plant, at his expense, a similar tree or shrub to replace the removed tree or shrub.

(Ord. of 3-28-94(1), § 12.16.110)