

ARTICLE I. IN GENERAL

Secs. 70-1—70-30. Reserved.

ARTICLE II. TREES*

DIVISION 1. GENERALLY

Sec. 70-31. 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:

Commission means the city tree commission.

Curb tree lawn means that part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.

Developer means all persons or an organization of any kind who shall engage in new construction or other improvements in any zoning district in the city.

DPS means the city department of public services.

DPS superintendent means the city administrator or designee.

Park means all public parks having individual names and all areas, whether owned by the city or not, to which the public has free access as a park.

Prohibited species means any species of tree that shall not be planted or allowed to remain on public property, as determined by resolution of the city council made available to the public.

Public utility means any person or organization owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telecommunication service.

Street means all the land lying between property lines on either side of all streets, and highways and public rights-of-way in the city.

Tree means, unless the context clearly indicates otherwise, trees, shrubs, bushes and all other woody vegetation, whether potted or not.

(Ord. No. 91, § 2(a)—(h), eff. 10-23-1979; Ord. eff. 5-25-1997)

Cross reference—Definitions generally, § 1-2.

***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 2. TREE COMMISSION*

Sec. 70-51. Creation and establishment.

A tree commission is established to consist of five members who are residents of the city. Members of the tree commission shall be appointed by the mayor and confirmed by the city council. The tree commission may include one member of the parks, recreation and cemetery commission and one city council member.

(Ord. No. 91, § 3, eff. 10-23-1979; Ord. eff. 3-14-1994; Ord. eff. 5-25-1997; Amend. of 6-28-2004)

Sec. 70-52. Terms of office; annual meeting.

(a) The terms of office of members of the tree commission who hold other elective or appointive offices of the city shall coincide with the remainder of their terms. Other members shall be appointed to three-year terms.

(b) An annual meeting of the commission shall be held at the commission's first meeting of each year.

(Ord. No. 91, § 4, eff. 10-23-1979; Ord. eff. 3-14-1994; Ord. eff. 5-25-1997; Amend. of 6-28-2004)

Sec. 70-53. Powers.

(a) The tree commission has the power and authority to regulate all plantings, maintenance and removal of trees, plants and shrubs in public streets, parks and other lands within the control of the city.

(b) The tree commission shall propose rules governing its functions for adoption by the city council.

(Ord. No. 91, § 5, eff. 10-23-1979; Ord. eff. 3-14-1994; Ord. eff. 5-25-1997)

Sec. 70-54. Duties and responsibilities.

(a) It shall be the responsibility of the commission to study, investigate, counsel, develop, administer and annually update a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented each year to the city council along with the commission's proposed budget, and upon its acceptance and approval by the council shall constitute the official comprehensive tree plan for the city.

(b) The commission may recommend to the city council that a registered state forester be engaged as a consultant to assist the commission in the technical matters of forestry management.

***Charter reference**—Members of boards, commissions, authorities and other agencies, § 6.7.

Cross reference—Boards and commissions, § 2-91 et seq.

Sec. 70-72. Permits required.

(a) *Tree planting, tree removal and other tree management activity.*

- (1) No person shall plant, transplant or remove any tree from any curb tree lawn, street, right-of-way, park or other public place in the city, nor cause such act to be done by others, without first obtaining a written permit from the office of the city clerk.
- (2) All permits shall be subject to the rules and regulations of the commission.

(b) *Other requirements.* Persons requesting and receiving permits shall follow the requirements of city ordinances, standards and policies pertaining to the activity for which the permit was granted.

(c) *Permit expiration.*

- (1) Each permit granted shall contain an expiration date, and the work shall be completed in the time allowed in the permit, and in the manner described in the permit.
- (2) Any permit issued shall be void if its terms are violated, or if the work described is not substantially completed by its expiration date.
- (3) Permit extensions will be considered if conditions warrant.

(d) *Permit contents.*

- (1) Every permit issued by the city clerk shall describe work to be done, or state the number of trees to be removed or planted and the location, size, species or variety of each tree, the method of planting and other information that the DPS superintendent may require to insure that the work will be done properly.
- (2) Whenever any tree shall be planted in conflict with the provisions of the permit, it shall be lawful for the DPS superintendent to cause removal of the tree, and the cost for removal shall be assessed to the permittee as provided by law in the case of special assessments.

(Ord. No. 91, § 10, eff. 10-23-1979; Ord. eff. 5-25-1997)

Sec. 70-73. Developers responsibility.

(a) *Generally.* Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinance and policies of the city and its tree commission including, but not limited to, subdivision regulations and site plan requirements.

(b) *Minimum planting requirements.* One tree of an approved species measuring at least 2½-inch caliper shall be planted in the street at all new construction-sites, residential or otherwise, for each site or lot of 80 feet or less, and at least two trees for every lot in excess of 80 feet frontage. Corner lots shall require at least one tree for each street. The developer shall show the location of the required trees on the submitted site plan prior to the issuance of a building permit. The developer shall be responsible for fulfilling these requirements.

(Ord. No. 91, § 11, eff. 10-23-1979; Ord. eff. 5-25-1997)

Secs. 70-76—70-90. Reserved.

DIVISION 4. REGULATIONS PERTAINING TO TREES ON PRIVATE PROPERTY

Sec. 70-91. Authority of city DPS superintendent to inspect trees on private property.

The DPS superintendent or designee shall have authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects or diseases are suspected. The superintendent or his agents may remove such specimens as are required for analysis to determine the presence of insect, disease or other detrimental conditions. It shall be unlawful for any person to prevent the superintendent or designee from entering private property for purposes of carrying out his duties under this article.

(Ord. No. 91, § 14, eff. 10-23-1979)

Sec. 70-92. Private trees; disease, insect and other hazards.

(a) The DPS superintendent upon discovery that any tree growing on private property within the city is afflicted with any dangerous insect infestation, disease or condition, shall immediately serve a written notice upon the property owner or agent of the owner describing the tree or trees, their location, the nature of the insect infestation, disease or condition, and order the owner or agent to take necessary measures to abate the insect infestation or disease or condition, to prevent the spreading thereof, and shall specify the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary.

(b) The requirements of the notice shall be satisfied in no more than ten days.

(c) If at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, the DPS superintendent or designee shall carry out the requirements of the notice. The cost of completing the work necessary to resolve the condition complained of shall be billed the property owner and if not timely paid, shall be assessed against the property on the next general assessment roll of the city.

(Ord. No. 91, § 15, eff. 10-23-1979)

Sec. 70-93. Trimming and removal of trees on private property.

(a) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove the obstruction from the public street, highway, sidewalk, park or public place and so as to eliminate the hazard and the danger to the public, pursuant to written notice by and under the supervision of the city superintendent.

(b) When such notice is given, the property owner will be given a reasonable and definite time to comply with the order, but not less than ten days, unless immediate hazard exists. If the work is not satisfactorily completed within that time, then the DPS superintendent or designee may enter upon the property, make the necessary trimming or removals, and dispose of the trimming or removals; provided that all or part of the costs involved in the trimming or removal when done by the DPS superintendent or designee shall be assessed against the property on the next property tax roll of the city. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light.

(Ord. No. 91, § 16, eff. 10-23-1979)

Secs. 70-94—70-120. Reserved.

ARTICLE III. WEEDS AND GRASS*

Sec. 70-121. Weeds; definition.

All plant growth except flowers, vegetables, agricultural crops, trees, bushes or grass, are hereby declared to be weeds, whether noxious or otherwise.

(Ord. No. 82, § 1, eff. 6-16-1986)

Cross reference—Definitions generally, § 1-2.

Sec. 70-122. Public nuisance.

All weeds and grass standing at the height of eight inches or more on land within the city, unless otherwise excepted by this article, are hereby declared to be public nuisances.

(Ord. No. 82, § 2, eff. 6-16-1986)

Sec. 70-123. Unlawful height of weeds and grass.

No person shall permit weeds or grass to reach a height of eight inches on land within the city owned by or under the possession, control or occupancy of such person, including any public right-of-way or easement portion thereof.

Exceptions:

- (a) It shall not be unlawful to allow the growth of weeds or grass beyond the height of eight inches in land areas not within subdivisions, except upon that part of such areas of land within 50 feet of any lot line of a platted subdivision or the property line of any parcel upon which there is a dwelling, or street, or adjacent to a street or highway right-of-way.

*State law reference—Control and eradication of noxious weeds, MCL 247.61 et seq., MSA 9.631(1) et seq.

Sec. 70-74. Protection of trees and shrubs.

Unless a permit shall have been issued by the office of the city clerk for such activity, it shall be unlawful for any person to do the following to any trees in or upon any public street right-of-way, curb tree lawn, park or other public places:

- (1) Fasten any sign, card, poster, wire, rope or other material to, around or through, any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care;
- (2) A person shall not remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner;
- (3) A public utility, as defined by this article, may, without such permit, trim trees and/or shrubs in reasonable fashion, when necessary to ensure the operation and maintenance of the utility;
- (4) Permit any fire to burn where such fire will injure any portion of any tree or shrub;
- (5) Permit any toxic chemical to seep, drain or to be emptied on or about any tree or shrub;
- (6) Deposit, store, place or maintain, on any street, highway or other public place, any brick, sand, stone, concrete or other materials which may impede free passage of water, air and fertilizer to the roots of any tree or shrub growing therein;
- (7) 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;
- (8) Knowingly permit any electrical wires to come into contact with any tree or shrub;
- (9) Allow excavations and driveways to be placed within five feet of any tree without a written permit issued by the DPS superintendent after consultation with and approval from the tree commission. A person making such excavation or construction shall guard any tree within six feet thereof with a substantial frame box to be approved by the DPS superintendent. All building materials or other debris shall be kept at least four feet from any tree;
- (10) Plant any prohibited species of tree as in section 70-31, and as determined by the tree commission.

(Ord. No. 91, § 12, eff. 10-23-1979; Ord. eff. 5-25-1997)

Sec. 70-75. Compensation for trees destroyed or damaged.

The cost of public trees growing on streets, curb tree lawns, parks or other public places which are destroyed or damaged to the point where repair or replacement is needed, shall be paid for by the person causing such damages in the amount needed to replace or repair the destroyed or damaged trees. The tree commission shall determine all questions of cost related to damage. Any value realized from any tree removed from public property shall be for the exclusive benefit of the city.

(Ord. No. 91, § 13, eff. 10-23-1979)

(c) The commission, when requested by the city council, shall consider, investigate, make findings, reports and recommendations upon any special matter or question within the scope of its work.

(Ord. No. 91, § 6, eff. 10-23-1979; Ord. eff. 5-25-1997)

Sec. 70-55. Organization; quorum.

(a) The commission shall elect a chair, a vice-chair and a secretary at its annual meeting.

(b) A majority of members present in person at a meeting shall constitute a quorum.

(c) The secretary shall keep minutes of all commission meetings.

(d) The commission shall propose a budget to the city administrator for timely inclusion in the annual budget of the city.

(Ord. No. 91, § 7, eff. 10-23-1979; Ord. eff. 5-25-1997)

Sec. 70-56. Donations, gifts and bequests.

(a) The commission shall, on behalf of and with the consent of the city council, have authority to receive gifts or bequests from any person for the planting and/or maintenance of trees and shrubs on any street or public property.

(b) The gifts or bequests shall be received by the city and maintained in a special fund for planting and/or maintenance of trees and shrubs on any street or public property.

(Ord. No. 91, § 8, eff. 10-23-1979)

Secs. 70-57—70-70. Reserved.

DIVISION 3. REGULATIONS PERTAINING TO TREES ON PUBLIC PROPERTY

Sec. 70-71. Reforestation.

(a) The planting, maintenance or removal of trees at public places within the city shall be done either by the DPS or by an independent contractor skilled in those matters and hired for such purpose.

(b) The superintendent of the DPS shall have the authority to remedy any immediate threat to the health, safety and welfare of the public involving trees, shrubs and other plant growth within public street rights-of-way and on publicly owned or controlled land within the city.

(Ord. No. 91, § 9, eff. 10-23-1979; Ord. eff. 5-25-1997)

Sec. 70-32. Purpose and intent.

(a) It is in the best interest of the city and its citizens that a comprehensive tree management program be adopted, and that laws be adopted to regulate this program to better control tree planting, tree removal, tree maintenance and tree protection activities within the city; and in order to better control problems of air pollution, landscape deterioration and noise while enhancing the beauty of our city and upholding property values.

(b) The purpose of this article is to:

- (1) Permit management and protection of trees for public health, safety and the general welfare;
 - (2) Preserve and promote the city and its land resource values; and
 - (3) Define the power and duties of those who administer this article.
- (Ord. No. 91, § 1, eff. 10-23-1979)

Sec. 70-33. Applicability.

The provisions of this article, except as otherwise specifically stated in this article, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Ord. No. 91, § 2(i), eff. 10-23-1979)

Sec. 70-34. Enforcement and appeals.

The city DPS superintendent is hereby designated as the agent to enforce the provisions of this article.

(Ord. No. 91, § 18, eff. 10-23-1979)

Sec. 70-35. Appeals.

If at any time a bona fide dispute arises or shall exist relative to or under the provisions of this article such dispute must first be submitted to the tree commission for the city in accordance with the rules and regulations set forth by the tree commission as provided for in this article.

(Ord. No. 91, § 18, eff. 10-23-1979)

Sec. 70-36. Municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 42-38. Repeat offenses under this article shall be subject to increased fines as set forth in section 42-38.

Secs. 70-37—70-50. Reserved.