

CHAPTER 49

TREE ORDINANCE

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN THE PUBLIC STREETS, PARKS, AND OTHER CITY OWNED OR CONTROLLED PROPERTY; ESTABLISHING A CITY TREE COMMISSION AND APPOINTING A MUNICIPAL ARBORIST; PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES; PROVIDING FOR THE ISSUING OF PERMITS FOR THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES; PROVIDING FOR THE PRUNING AND REMOVAL OF TREES ON PRIVATE PROPERTY WHICH ENDANGER PUBLIC SAFETY; AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

49.01 SHORT TITLE

This ordinance shall be known and may be cited as the Tree Ordinance of the City of Lapeer.

49.02 DEFINITIONS

For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

"CITY" means the City of Lapeer.

"LARGE TREES" are those trees attaining a height of 45 feet or more at maturity.

"MEDIUM TREES" are those trees attaining a height of 30 to 45 feet at maturity.

"MUNICIPAL ARBORIST" is the person(s) designated by the City Manager and assigned to enforce and otherwise carry out the provisions of this ordinance.

"PARK" shall include all City parks having individual names.

"PERSON" is any person, firm, partnership, association, corporation, company, or organization of any kind.

"PROPERTY LINE" shall mean the person owning such property as shown by the property tax records at the City.

?PUBLIC PLACES? shall include all other grounds owned or controlled by the City.

?PUBLIC TREES AND SHRUBS? shall include all shade and ornamental trees, shrubs, bushes, and all other woody vegetation, now or hereafter growing in any street right-of-way, public parks, or public places.

?SMALL TREES? are those trees attaining a height of 20 to 30 feet at maturity.

?STREET OR HIGHWAY? means the entire width of every public way or right-of-way, including alleys, when any part thereof is open to the use of the public for vehicular and/or pedestrian traffic.

?TREE LAWN? is that part of a street or highway, not covered by a sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

49.03 CITY TREE COMMISSION

(A) ESTABLISHMENT

There is hereby created a commission to be known as the ?City Tree Commission.? The City Tree Commission shall be comprised of the City Manager, Superintendent of Parks, Director of the Department of Public Services, and the Director of the Parks and Recreation Department.

(B) DUTIES

The duties of the City Tree Commission shall be as follows:

- (1) To study and determine the needs of the City in connection with its tree planting and maintenance programs.
- (2) To recommend to the City Commission the type and kind of trees to be planted in street or highway right-of-ways, parks or other public places, and to recommend appropriate programs and procedures for the maintenance of trees in public right-of-ways, parks and other public places.
- (3) To assist the City Commission and citizens of the City by the dissemination of information regarding the selection, planting, and maintenance of trees within the City, whether the same be on public or private property.
- (4) To recommend to the City Commission such ordinance or regulation amendments concerning the tree program and activities as may, from time to time, be appropriate.

49.04 MUNICIPAL ARBORIST.

(A) AUTHORITY

The Municipal Arborist shall have the authority to enforce the provisions of this ordinance.

(B) SUPERVISION

The Municipal arborist shall have the authority and duty to supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance

(C) MASTER STREET TREE PLAN

The municipal Arborist shall work with the City Tree Commission to formulate a Master Street Tree Plan which may, among other things, identify the species and location of trees to be planted in City streets, parks, and other public places. The Master Street Tree Plan shall be approved by the City Commission. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all tree planting shall conform to that plan.

49.05 PERMITS FOR UTILITY COMPANIES

(A) PERMIT REQUIRED

Except as provided in sub-section (E), no public utility company shall plant, spray, fertilize, prune, remove, trim cut above ground, or otherwise disturb any tree in any street, park, or other public place without first having obtained a permit from the Municipal Arborist.

(B) APPLICATION

Applications for permits may be obtained from the City Clerk's office or from the Municipal Arborist and shall be made not less than five (5) business days in advance of the time the proposed work is to commence.

(C) STANDARDS OF ISSUANCE

The Municipal arborist shall issue the permit provided for herein if the proposed work is reasonably necessary and the proposed method and manner of the work to be performed complies with the Arboricultural Specifications and Standards of Practice and other regulations adopted pursuant to this ordinance.

(D) NOTICE OF COMPLETION

Notice of completion of the work shall be given to the Municipal Arborist within five (5) business days after the work has been completed so the Municipal Arborist may inspect the

work to insure compliance with the conditions set forth in the permit.

(E) EMERGENCY

In cases of emergency, such as ice storms, rain storms, wind storms, snow storms, accidents, or other suddenly occurring circumstances, a utility company may do such cutting, trimming and removing of trees in street right-of-ways, parks or other public places, as may be reasonably necessary to restore or maintain utility service to the public, without first having obtained a permit. Notice of completion of said work shall be given to the Municipal Arborist within three (3) business days after such emergency work has been completed so that the Municipal Arborist may inspect the work to insure compliance with the Arboricultural Specifications and Standards of Practice and other applicable regulations contained in this ordinance.

49.06 PERMITS - GENERAL

(A) This section shall not apply to public utility companies.

(B) PERMIT REQUIRED

No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree located in any street, park, or other public place without first filing an application and procuring a permit from the Municipal Arborist. The person receiving the permit shall abide by the conditions set forth in the permit and the Arboricultural Specifications and Standards of Practice and other regulations adopted pursuant to his ordinance.

(C) APPLICATIONS

Applications for permits must be made at the City Hall not less than five (5) business days in advance of the time the work is to be done.

(D) STANDARDS OF ISSUANCE

The Municipal Arborist shall issue the permit provided for herein if the proposed work is reasonably necessary and the proposed method and manner of work to be performed complies with the Arboricultural Specifications and Standards of Practice and other regulations adopted pursuant to this ordinance. Permits shall contain a date of expiration and the work shall be completed by the expiration date. Any permit issued under this provision shall be void if its terms are violated.

(E) NOTICE OF COMPLETION

Notice of completion shall be given to the Municipal Arborist within five (5) business days after the work has been completed in order that the Municipal Arborist may inspect the work to insure compliance with the conditions set forth in the permit.

49.07 RULES AND REGULATIONS

(A) PROMULGATION AND CONTENT

The Municipal Arborist is hereby authorized to make such rules and regulations as are reasonably necessary to carry out the intent of this chapter, provided that such rules are not in conflict with this or any other law of the City or other appropriate governmental unit, and provided further that such rules are approved by the City Commission. The rules and regulations may include, among other things, information to be included in any permits issued under this chapter, specifications regarding spacing of trees, species and types of trees permitted in certain circumstances, details regarding types of sprays permitted.

(B) ADHERENCE

Failure to observe any approved rule or regulation shall be a violation of this chapter.

(C) AVAILABILITY

Such rules and regulations as are approved by the City Commission shall be published and available for distribution at the City Clerk's office.

49.08 CORNER CLEARANCE

All shrubs and bushes located in the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of twenty-five (25) feet each way from the intersection of the right-of-way lines on any corner lot within the City, shall be limited to a height of not more than thirty (30) inches from the top of the curb at street level in order to permit drivers of vehicles approaching such intersection to have an unobstructed view. Trees existing in such triangles, whether on private property or in public right-of-ways or publicly owned property, may continue to be so located provided that all branches are trimmed to maintain a clear vision for a vertical height of twelve (12) feet above the roadway surface and provided there is sufficient spacing between trees so that there is no vision obstruction creating a potential hazard for drivers using the street.

49.09 ABUSE OR MUTILATION OF TREES

With regard to trees in City streets, parks, or public places, unless specifically authorized by permit, no person shall:

1. Damage, cut, or carve any such tree.
2. Attach any rope, wire, nails, advertising posters or other contrivance to such trees.
3. Allow any gaseous, solid or liquid substance which is harmful to such trees to come into contact with any such tree.
4. Set fire or permit any fire to burn when such fire or the hear thereof may injure any portion of any such tree.

49.10 INTERFERENCE WITH MUNICIPAL ARBORIST

No person shall interfere with, hinder, or attempt to hinder or prevent the Municipal Arborist or any of his/her designees from the performance of their duties under the provisions of this Ordinance.

49.11 TREES CONSTITUTING OBSTRUCTIONS

It shall be the duty of the owner or occupant of real property upon which trees are growing to maintain such trees so the trees do not:

- 1) Obstruct or shade street lights.
- 2) Obstruct the passage of pedestrians on sidewalks.
- 3) Obstruct the vision of traffic signs.
- 4) Obstruct the view at any street or alley intersection.
- 5) In any way present a public menace or hazard.

The minimum clearance of any overhanging potion of any such tree shall be eight (8) feet over sidewalk, and twelve (12) feet over all streets except those designated as truck thoroughfares in which case the minimum overhand shall be sixteen (16) feet.

49.12 PRIVATE TREES

(A) INVESTIGATION BY MUNICIPAL ARBORIST

The Municipal Arborist or his/her designee may enter onto private property whereon there is located a tree, shrub, plant, or part thereof, that is suspected to be a public nuisance. Such nuisance may include, but is not limited to, any tree, plant or shrub with an infectious disease or insect problem; dead or dying trees; a tree, limb, or plant that obstructs street lights, traffic signs, or the free passage of pedestrians or vehicles; a tree, plant or shrub that otherwise poses a threat to the general health, safety and welfare of the public.

(B) NOTICE TO CORRECT

Should any person owning or occupying real property fail to maintain trees on such property as required in this chapter, the Municipal Arborist, or his/her designee, may issue a ten (10) day notice to correct such violation.

(C) FAILURE TO COMPLY

When a person to whom a notice provided for herein shall fail to comply with the said notice to correct a violation of this ordinance. It shall be lawful for the City to immediately remove and/or maintain such tree, plant or shrub creating the violation and bill the total cost thereof to the occupant of said premises, or the owner of said premises according to the tax records of the Assessor for City. Failure to pay any such bill within thirty (30) days from the date thereon, shall create a right in the City to add the amount of such bill to the real property tax rolls for said property, to be collected the same as other real property taxes in the City.

49.13 SEVERABILITY

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid or unenforceable, the same shall not affect the validity of the remaining provisions of this ordinance.

49.14 PENALTY

Any person, firm, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a maximum penalty of ninety (90) days in jail and/or a \$500.00 fine.

EFFECTIVE DATE OR ORDINANCE: APRIL 15, 1992