

City of Rochester– Tree Ordinance

ARTICLE II. VEGETATION ON PUBLIC GROUNDS*

***State law references:** Care of trees and shrubs along highways, MCL 247.241 et seq.; injury or destruction of trees on public property, MCL 19.142(1)(a); municipal forests, MCL 324.52701 et seq.

Sec. 20-31. 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:

City manager and *manager* mean the city manager or his representative.

Public utility means any person, organization, firm or corporation, public or private, duly authorized to supply electric, gas, telephone, telegraph or water service to, or for the general benefit of the public.

Right-of-way means any public street, highway, alley or avenue of the city.

Trees and shrubs means all woody vegetation.

(Code 1982, § 3.2-1(1)--(4))

Cross references: Definitions generally, § 1-2.

Sec. 20-32. Applicability of article provisions.

The provisions of this article, unless otherwise specifically stated, shall apply only to public streets, alleys, highways, highway easements, parkways, parks and other land publicly owned or controlled by the city.

(Code 1982, § 3.2-1(5))

Sec. 20-33. Enforcement.

The department of public works shall be charged with the duty of enforcing the provisions of this article and shall discharge all duties that may be required or imposed by the city manager.

(Code 1982, § 3.2-2)

Sec. 20-34. Rules.

The city manager shall have control over all trees, shrubs and plants in the streets, alleys and parks of the city and is empowered to plant, prune, spray, cultivate and preserve all trees and shrubs within the confines of the streets, alleys, parks and public areas of the city. No person shall prune, spray, plant or remove any shrubs or trees upon the rights-of-way or parks without first obtaining a written permit from the city manager. No person shall cut or break down or destroy any trees or shrubs in the rights-of-way or parks at any

time without first obtaining the written permission of the city manager. No person shall plant any shade or ornamental trees in the rights-of-way or parks without approval as to location, variety of trees, size, etc., by the city manager. No tree that will exceed a maximum growth height of 40 feet shall be planted in the rights-of-way where police, fire, street lighting, traffic signal or public utility overhead wires and equipment are located. No person shall have the right to plant any variety of poplar trees, willows, box elders, silver maples, tree of heaven, horse chestnut, buckeye, or other quick growing tree in such location that their roots are likely to injure sewers or heave walk or street surfaces.

(Code 1982, § 3.2-3)

Sec. 20-35. Use as anchor.

It shall be unlawful for any person to use any tree as an anchor, and no material shall be fastened to or hung on any trees in any rights-of-way or park except by written permission of the city manager.

(Code 1982, § 3.2-4)

Sec. 20-36. Trimming.

Every owner of any tree, shrub or plant, overhanging the streets or rights-of-way within the city, shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of the surface of the street, alley, or rights-of-way. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with visibility of any traffic control device or sign, or interferes with any public utility wires or equipment necessary to serve police or fire communication systems or street lighting or traffic control systems, such trimming to be confined to the area immediately above the rights-of-way.

(Code 1982, § 3.2-5)

Sec. 20-37. Covering surface near trees.

No person shall place on public property any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any trees, subject to the provisions of this article.

(Code 1982, § 3.2-6)

Sec. 20-38. Protection of trees.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire, or permit any fire, or the heat thereof, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree; provided, however, that this shall not prohibit the use of city-approved chemical control of trees and brush growth. No electric wires or installation, or any other lines or wires, shall be attached to any tree in any manner that shall cause damage thereto. All persons having under their care, custody or control facilities which may interfere with the trimming or removal of any tree subject to this article shall, after notice thereof by the

department of public works, promptly abate such interference in such a manner as shall permit the trimming or removal of any tree by the department of public works.
(Code 1982, § 3.2-7)

Sec. 20-39. Planting and removal.

The planting and/or removal of trees and shrubs in the public rights-of-way, parkways, parks, and other public areas of the city may be done either upon resolution of the city council or petition of parties owning a majority of the lineal footage of the property fronting on the line of such street; or by order of the city manager upon recommendation of the department of public works.
(Code 1982, § 3.2-8)

Sec. 20-40. Assessments.

Whenever deemed necessary by the city manager to lay out and plant trees and shrubs upon any public rights-of-way within the city or to remove undesirable species of trees, other than those so specified in this article, it shall be the duty of such city manager to report such fact to the city council. Such planting or removal shall be deemed to be a public improvement. The cost thereof may be paid, in whole or in part, by levying and collecting special assessments upon property especially benefited thereby, in accordance with the provisions of chapter 46.
(Code 1982, § 3.2-9)

Sec. 20-41. Planting location.

In all future planting of shade trees in the rights-of-way, such trees shall be spaced not less than 40 feet apart, except that trees may be planted less than 40 feet apart if a review by the city manager reveals proper species selection for a confined site. Trees may be planted less than 40 feet from an existing tree in the rights-of-way, provided that the existing tree has been approved for removal within a period of two years from the date of planting of the new tree. No tree shall be planted in planting strips between the curb and sidewalk that are less than three feet in width; trees on private property adjacent to the sidewalk shall be planted not less than three feet therefrom. No trees shall be planted nearer to the intersection of any two or more streets than 25 feet from the point of intersection of two right-of-way lines.
(Code 1982, § 3.2-10)

Sec. 20-42. Removal of dead, diseased trees.

All dead trees and trees afflicted with any fatal or communicable disease shall be removed by the department of public works with the approval of the city manager. The abutting property owner shall be notified in writing through personal service in the event of the intended removal of any living tree. In the event of an objection from the abutting property owners, the trees shall not be removed until after a public hearing has been held by the city council to consider its removal. Where an owner of property requests the removal of a tree, the manager is authorized in his discretion, to require as a condition precedent to granting of approval for such removal, that such property owner make the

removal in accordance with regulations established by the department of public works, assume all or any part of the costs of removing such tree, and also to further require that such tree be replaced at some other location in the immediate vicinity, by planting another tree of a type permitted under this article.
(Code 1982, § 3.2-11)

Sec. 20-43. Utility permits.

The city manager shall, upon request of any interested public utility, issue an annual permit, and shall annually thereafter renew such permit, granting permission to the public utility to chemically control and trim and keep trimmed all trees and shrubs intruding into the air spaces over, or growing within the confines of, the streets, alleys, parks, rights-of-way and public places of the city in such a manner as shall keep the overhead lines or equipment of such public utilities safe and accessible, and clear of all tree growth which endangers or may endanger said overhead lines or equipment and the public health and safety. Such chemical control and trimming shall be done in accordance with approved practices and under the general direction of the director of public works. The permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder; provided, however, that in the event of any emergency requiring immediate maintenance work on the overhead lines of such public utility, prior notice of commencing work under such permit shall not be required. The term "emergency," as used in this section, shall be defined to mean the occurrence or happening of an event which could not be expected or prevented by the exercise of reasonable care and foresight and which endangers or may endanger the overhead lines of the public utilities and the public health and safety.
(Code 1982, § 3.2-12)

Sec. 20-44. Removal of obstructing trees.

The city manager is hereby authorized to direct the department of public works to remove any trees or shrubs growing on any rights-of-way, park or public place in the city when such trees or shrubs are interfering with fire hydrants, sewers and water mains, visibility at street intersections, traffic control devices or construction affecting the public health and safety within the rights-of-way.
(Code 1982, § 3.2-13)

Sec. 20-45. Dutch elm disease.

Trees of all species and varieties of elm, zelkova and planera affected with the fungus *Ceratostomella ulmi*, as determined by laboratory analysis, are hereby declared to be a public nuisance, and shall be removed and burned within ten days following notification of the discovery of such infection. It shall be unlawful for any person, being the owner of property whereon such a tree is situated, to possess or keep such a tree after the expiration of ten days following notification of the discovery of such infection.
(Code 1982, § 3.2-14)

Sec. 20-46. Infected trees declared nuisance.

Trees or parts thereof of elm, zelkova or planera in a dead or dying condition that may serve as breeding places for the European Elm Bark Beetle, Scolytus Multistriatus, are hereby declared to be public nuisances, and it shall be unlawful for the person owning property whereon the same is situated to possess or keep the same.
(Code 1982, § 3.2-15)

Sec. 20-47. Manager to enforce.

The city manager is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the city manager entering on private property for purposes of carrying out his duties hereunder, or to interfere with such city manager in the lawful performance of his duties under the provisions of this article.
(Code 1982, § 3.2-16)

Sec. 20-48. Notice to owner.

If trees on private property are found to be infected, the city manager shall give to the owner of the premises where such trees are situated written notice of the existence of such disease, and requiring the removal and burning to be under the direction and supervision of the city manager. Such notice shall also notify the owner of such premises that unless such tree is removed and burned in compliance with the terms thereof within such ten-day period, the city will proceed with the removal and burning of such tree, and assess the cost thereof against the property in accordance with chapter 46. The notice herein required shall be given as prescribed in section 46-8.
(Code 1982, § 3.2-17)

Sec. 20-49. Removal and burning.

It shall thereupon become the duty of the owner of the premises to cause such tree to be removed and burned, under the direction of the city manager, or his authorized deputy or employee. In lieu thereof, the person charged with such removal and burning may request that the same be done by the city manager. If the city shall remove and burn any tree, all expenses incurred in connection therewith shall be reported to the city council, for assessment against the lands whereon such tree was situated, in accordance with the provisions of chapter 46.
(Code 1982, § 3.2-18)

Cross references: Fire prevention and protection, ch. 22.

Sec. 20-50. Public trees.

Trees on public lands within the city shall be removed at the expense of the city.
(Code 1982, § 3.2-19)

Secs. 20-51--20-80. Reserved.