

this article. Such permit when issued shall state the terms and conditions deemed appropriate by the village manager and shall be in effect for the length of time provided for in such permit. Any person having a permit issued pursuant to this article shall hold the village harmless for any and all claims for damages for injuries or to the property arising out of the activities carried on in the Grand Trunk right-of-way by such person.
(Code 1982, § 17-63)

Sec. 70-153. Protection from damage.

No unauthorized person shall enter to maliciously, willfully or negligently break, damage, destroy, uncover, tamper with, deface or otherwise harm any of the Grand Trunk right-of-way or any structure, appurtenance, equipment or other part of the right-of-way.
(Code 1982, § 17-64)

Sec. 70-154. Scope.

This article shall not repeal, abrogate or annul or in any way impair or interfere with existing provisions of other ordinances of the village or with state law, except where those have been specifically repealed at the time of the adoption of this article. Where provisions of any state law, rule or regulation or other village ordinance which may be applicable impose greater restrictions or other duties on persons concerning Grand Trunk right-of-way than those restrictions and standards contained in this article, then the provisions of such law, rule, regulation or ordinance shall control.
(Code 1982, § 17-65)

Sec. 70-155. Public nuisance.

Any violation of this article is declared to be a public nuisance.
(Code 1982, § 17-66)

Secs. 70-156—70-190. Reserved.



ARTICLE V. TREES AND SHRUBS*

Sec. 70-191. 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:

Park trees means any one or more trees, shrubs, bushes and all other woody vegetation in public parks and all other areas owned by the village.

***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.; destruction or injury of trees on public highways, MCL 247.235, MSA 9.355.

Public highway means all the land lying between private property lines on either side of all public streets, alleys, ways and places.

Street trees means any one or more trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all public highways, streets, avenues or ways within the village.

Tree board means the parks and recreation committee as designated by the village council, which will develop and administer a comprehensive community tree management program for the care of park trees and street trees on public property.

(Code 1982, § 17-70; Ord. No. 212, § 1, 4-19-1993)

Cross reference—Definitions generally, § 1-2.

Sec. 70-192. General penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of this article shall be responsible for a municipal civil infraction, subject to section 1-8. Increased civil fines may be imposed for repeated violations, which means a second or subsequent municipal civil infraction violation committed by a person within any 12-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for a repeat violation shall be as follows:

- (1) The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions;
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

(Code 1982, § 17-86; Ord. No. 236, § 1, 5-15-1995)

Sec. 70-193. Restitution.

Any person convicted of a violation of this article shall, in addition to the penalties provided in section 70-192, also be required to make restitution to the village for the damage incurred by paying for the cost of removal, stump grinding and replacement of the damaged tree with a new tree of the type used by the village in the annual tree planting program, as approved by the village manager.

(Code 1982, § 17-87)

Sec. 70-194. Village manager authority.

(a) The village manager shall have jurisdiction, authority, control, supervision and direction over all street trees and park trees, plants and shrubs planted or growing in or upon the public ways and public places of the village, and their planting, removal, care, maintenance and protection. Upon referral by the village manager, the tree board will develop and recommend the administration of a comprehensive community tree management program for the care of street trees and park trees.

(b) The tree board shall recommend tree care policies for planting, maintenance and removal, including the species to be utilized in replacing and planting of street trees and park trees, including the spacing and location requirements for such trees.

(c) The tree board shall also provide to the village manager and the village council an inventory of the street trees and park trees, species, location and condition with the intent that such report shall present an objective analysis of the status of such trees and recommendations for future management. By way of example but not limitation, the annual inventory shall provide a work plan which would address the care, maintenance and removal of dead or hazardous trees, pruning requirements and insect and disease control.

(Code 1982, § 17-71; Ord. No. 212, § 2, 4-19-1993)

State law reference—Control of insect pests and contagious plant diseases, MCL 286.251 et seq., MSA 12.263(1) et seq.

Sec. 70-195. Planting trees; permit required; specifications; prohibited varieties.

(a) No shade or ornamental tree, plant or shrub shall be planted in any of the public highways of the village by private individuals, businesses or corporations until the village manager shall have first approved the kind, size and variety of the trees, designated the location and granted a permit for their planting, provided that trees shall be planted not less than 40 feet apart, not less than 3½ feet from any sidewalk, and not less than 3½ feet from any driveway, and provided, further, that if in the opinion of the village manager such spacing is undesirable, impossible or impractical, the village manager may allow a variation of spacing and shall so state on the permit, together with the reason. It is further provided that no varieties of soft maple, willow, poplar, catalpa, box elder, black locust, elm, ailanthus, fruit trees or other weak-wooded trees that may be prohibited by other village ordinances shall be set out on the public highways, nor any other tree unless it is free from infectious disease. The village manager may promulgate additional rules for types of trees to be planted and spacing of street trees of varying sizes and varieties if deemed to be in the best interest of the village.

(b) Unless expressly permitted as provided in section 70-200, planting of trees will be done by village employees or agents hired by the village under the direction of the village manager. (Code 1982, § 17-72)

Sec. 70-196. Prohibited acts.

(a) No person shall, without the written permit of the village manager, remove, destroy, break, deface, trim, brace, move, do surgery work, mutilate, kill, girdle, or in any way injure or interfere with any tree, plant or shrub in any highway, park or boulevard of the village; however, nothing in this section shall be construed so as to apply to the removal, under the direction of the village manager, of any root, tree, shrub or plant or part when such removal shall be necessary for the construction and/or maintenance of any sidewalks, sewer or public improvement.

(b) No person shall attach any rope, wire, cable, sign, card or poster or any other article to a tree or its guard in a public highway without a written permit from the village manager; nor shall any person pour or deposit salt or brine or other injurious material upon any public highway in such manner as to intentionally injure any tree or shrub planted or growing on the highway; nor shall any person hitch, tie, fasten or secure any horse or other animal to any tree or allow the animal to stand so it can injure any tree, plant or shrub.

State law reference—Attaching advertising to trees prohibited, MCL 247.235, MSA 9.355.

(c) Any subsurface installation or work, water line, sewer line, gas line, transmission line or other utility, within a ten-foot distance of a street tree or park tree will be by jack-and-bore method unless written approval for open trenching is issued by the village manager, in which case a charge for vigor pruning, fertilization or other preventative maintenance service will be applicable. This requirement shall not apply to the repair or replacement of a private utility lateral or service on private property.

(Code 1982, § 17-73)

Sec. 70-197. Protection of trees.

In the erection, alteration, repair or removal of any building, structure, utility line, pavement or sidewalk, the owner shall place or cause to be placed such guards around all nearby trees on the public highway as will effectually prevent injury to such trees.

(Code 1982, § 17-74)

Sec. 70-198. Trees extending into public highways.

(a) Any tree not growing on a public alley, street or highway but so located as to extend its branches over a public alley, street or highway shall be so trimmed by the owners of the property on which the tree stands or by the owners agents that there will be a clear height of 14 feet above the surface of the street or highway unobstructed by branches; and such owner or the owner's agents shall remove all dead branches and stubs on such trees which are or may become a menace to travelers on the public highway, street or alleys of the village.

(b) The village shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign. The village shall give each property owner so affected at least ten days' notice prior to taking action allowed by this subsection.

(Code 1982, § 17-75)

Sec. 70-199. Gas pipes, mains; leaks, remedy.

No person owning, maintaining or operating any gas pipes or mains laid beneath the surface of any street, alley or public place in the village shall permit any leaks to exist in such pipe or main within 40 feet of any tree growing in any street or public place in the village; and if leaks exist or occur in such pipe or mains, it shall be the duty of the person owning or operating such

defective pipes or mains to repair them immediately and stop such leaks in a manner so as to prevent a recurrence of the leaks and compensate the village for the removal and replacement of the dead trees caused by such leaks.

(Code 1982, § 17-76)

Sec. 70-200. Removal of trees; authority to impose.

As a condition to any permit to remove any tree or shrub as provided in section 70-196(a), the village manager may require that the permittee plant one or more approved tree or shrub in the place of the one removed and/or, if required by the village manager after reasonable determination of the circumstances of such removal, pay for moving the tree to another parkway location. Failure, refusal or neglect to plant another tree or shrub of the type, size and in the location specified in the permit within 12 months from the date of the issuance of the permit shall be a violation of this section.

(Code 1982, § 17-77)

Sec. 70-201. Restrictions on excavations.

No person shall excavate any ditches, tunnels or trenches within a radius of six feet of any tree or shrub without a written permit from the village manager.

(Code 1982, § 17-78)

Sec. 70-202. Prohibitions on harmful substances; painting; burning.

No person shall deliberately cause, authorize or permit any salt, brine water, oil, liquid dye or other substances deleterious to tree and shrub life to lie, leak, flow or drip into the soil at the base of any tree or shrub or on to any sidewalk, road, pavement or gutter in such position that the runoff may enter the soil area at the base of any tree or shrub; nor shall any person deface with paint, whitewash or other materials, trees or shrubs, in any public highway or place; nor shall any person set fire or permit any fire to burn where such fire or its heat will injure any portion of any tree or shrub in any highway, park or public place.

(Code 1982, § 17-79)

State law reference—Destruction or injury of trees upon public highway or place, MCL 247.235, MSA 9.355.

Sec. 70-203. Chains, cables, wires prohibited.

No person shall fasten chains, cables or wire about the trunk of any tree in the public highways, streets or places of the village; and the use of such trees as anchors is prohibited.

(Code 1982, § 17-80)

Sec. 70-204. Prohibition on impeding passage of air, water.

No person shall without the written permit of the village manager deposit, place or maintain upon the surface of any street or public highway of the village any stone, brick, concrete, cement or other material which shall impede the free passage of water and air to the roots of any tree growing in such street or public highway; however, nothing contained in this

section shall be construed to require the village in the construction of sidewalks or pavements to leave any open space around the trunk of any tree when such tree is planted or is growing within the lines established as a sidewalk line; but if any tree grows within a distance of less than one foot from the inner or outer established sidewalk lines, the sidewalk shall be so constructed as to leave an open space of one foot around the trunk of such tree.

(Code 1982, § 17-81)

Cross reference—Utilities, ch. 78.

Sec. 70-205. Electric wires.

(a) No person shall attach any electric wire, insulation or other device for holding electric wire to any tree growing in any street or public highway under the control of the village.

(b) Every person having any wires charged with electricity of more than 600 volts shall securely fasten the wires where reasonably practical so that such wires shall not come in contact with any tree in any street or public highway in the village.

(Code 1982, § 17-82)

Cross reference—Utilities, ch. 78.

Sec. 70-206. Interference with village employees or agents.

No person shall hinder, prevent or interfere with the agents or employees of the village while engaged in carrying out the provisions of this article.

(Code 1982, § 17-83)

Sec. 70-207. Enforcement; complaints; disputes.

It shall be the duty of the village manager to enforce the provisions of this article, and all complaints as to the violation of this article shall be presented in writing to the village attorney and shall be prosecuted in the name of the village. 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 village manager; reasonable efforts shall be used by the village manager to compromise the dispute.

(Code 1982, § 17-84)

Sec. 70-208. Trimming permitted.

A person owning property directly abutting a village parkway may effect minor and controlled remedial trimming of street trees located in the parkway if prior written approval is received from the village manager. Persons desiring to perform trimming under this section must file a written plan with the village manager for consideration. If the plan is approved, trimming may proceed only according to the approved plan. Exceeding the approved plan shall be a violation of this article.

(Code 1982, § 17-85)

Sec. 70-209. Budgeting.

The village council, upon its annual determination of the budget for operating the village, shall take into consideration the activities of the tree board and appropriate and spend at least \$2.00 per capita for the annual village forestry program as recommended by the tree board, acting by and through the village manager and the parks and recreation committee of the village. Such spending will be accounted for within the budget for the various departments or boards of the village which provide services to the street trees and park trees of the village. (Ord. No. 212, § 3, 4-19-1993)

Sec. 70-210. Arbor Day observance.

The village council annually will issue a proclamation to observe Arbor Day in the village at such time as is generally observed by other communities and the National Arbor Day Foundation. (Ord. No. 212, § 4, 4-19-1993)