

ARTICLE II. PLANTING OF TREES IN PUBLIC AREAS*

*Editor's note: Ord. No. 231, adopted Nov. 18, 2003, repealed the former Art. II, §§ 30-31--30-33, and established a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 112, §§ 1--3, adopted March 19, 1963; and Code of 1992, §§ 16-16--16-18.

Sec. 30-31. Purpose.

It is the purpose of this article to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Village of Grosse Pointe Shores. (Ord. No. 231, § 1, 11-18-2003)

Sec. 30-32. Definitions.

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the village.

Park trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the village, or to which the residents have free access as a park. (Ord. No. 231, § 2, 11-18-2003)

Sec. 30-33. Creation and establishment of village tree board.

There is hereby created and established a village tree board for the Village of Grosse Pointe Shores, Michigan, which shall consist of five members including citizens and residents of this village, who shall be appointed by the president with the approval of the council. (Ord. No. 231, § 3, 11-18-2003)

Sec. 30-34. Term of office.

The term of the five persons to be appointed by the president shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two other members of the first board shall be for two years, and the fifth person appointed shall be for three years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed by the president for the unexpired portion of the term. (Ord. No. 231, § 4, 11-18-2003)

Sec. 30-35. Compensation.

Members of the board shall serve without compensation. (Ord. No. 231, § 5, 11-18-2003)

Sec. 30-36. Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, and administer 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 will be presented annually to the village council and upon their acceptance and approval shall constitute the official comprehensive village tree plan for the Village of Grosse Pointe Shores, Michigan. The board, when requested by the village council, shall consider, investigate, make findings, report and make recommendations upon any matter coming within scope of its work.
(Ord. No. 231, § 6, 11-18-2003)

Sec. 30-37. Operation.

The board shall choose its own officers, make its own rules and regulations not inconsistent with this article, and keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business.
(Ord. No. 231, § 7, 11-18-2003)

Sec. 30-38. Street tree species to be planted.

The tree board shall prepare and review annually a list of tree species that will be allowed in the village, taking account of the durability and suitability of the various species that will be compatible with conditions present in the village. In addition, trees on this list should be selected for adaptability to location, climate and soil conditions, resistance to disease and insect pests, for healthy foliage that will withstand dust and smoke, and for root systems that will not damage or interfere with nearby sewers, drains, utility lines, or paved areas. Such trees shall have open growth, high branching and ultimate size proportionate to the surroundings, and be of at least three-inch circumference. The list shall be made available to residents upon request. No species other than those included in this list may be planted as street trees without written permission of the village tree board. All such species shall be classified as "small trees", "medium trees", or "large trees" for purposes of the terms of this article.
(Ord. No. 231, § 8, 11-18-2003)

Sec. 30-39. Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in section 30-38 of this article, and no trees may be planted closer together than the following:

- (1) Small trees, 30 feet;
- (2) Medium trees, 40 feet; and
- (3) Large trees, 50 feet; except in special plantings designed or approved by a landscape architect and the village tree board.

(Ord. No. 231, § 9, 11-18-2003)

Sec. 30-40. Distance from curb and sidewalk.

This distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 30-38 of this article, and no trees may be planted closer to any curb or sidewalk than the following:

- (1) Small trees, 2 feet;
- (2) Medium trees, 3 feet; and
- (3) Large trees, 4 feet.

(Ord. No. 231, § 10, 11-18-2003)

Sec. 30-41. Distance from street corners and fireplugs.

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.
(Ord. No. 231, § 11, 11-18-2003)

Sec. 30-42. Utilities.

No street trees other than those species listed as small trees in section 30-38 of this article may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord. No. 231, § 12, 11-18-2003)

Sec. 30-43. Public tree care.

- (a) The village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public right of way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The village tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 30-38 through 30-42 of this article.
(Ord. No. 231, § 13, 11-18-2003)

Sec. 30-44. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or village department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the village tree board.
(Ord. No. 231, § 14, 11-18-2003)

Sec. 30-45. Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said 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 village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interfere with visibility of any traffic control device or sign.
(Ord. No. 231, § 15, 11-18-2003)

Sec. 30-46. Dead or diseased tree removal on private property.

- (a) The village shall have the right to cause the removal of any trees on private property within the village when such trees constitute a hazard to life and property, or harbor

insects or disease which constitute a potential threat to other trees within the village. The village tree board will notify in writing the owners of such trees. Removal in accordance with the requirements of the notice shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of the owners to comply with such notice within the 60-day period, the village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax bill.

(b) In the event an owner objects to a notification from the village tree board to remove one or more trees in accordance with the provisions of section 30-50 no further action toward requiring the tree removal shall be taken until the village council has reached a determination in accordance with section 30-50. In the event the council requires the removal of the trees, removal in accordance with the requirement of the council shall be done at the owner's expense within 60 days of the council's determination. In the event of failure of the owner to comply with the determination within the 60-day period, the village shall have the authority to remove such trees and charge the cost of said activity on the owner's property tax notice. (See chapter 38, article III, for provisions dealing with Dutch Elm Disease which provisions shall control with respect to that specific disease.) (Ord. No. 231, § 16, 11-18-2003)

Sec. 30-47. Removal of stumps.

All stumps of street and park trees shall be removed at least six inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 231, § 17, 11-18-2003)

Sec. 30-48. Interference with village tree board.

Except as set forth in section 30-50, it shall be unlawful for any person to prevent, delay, or interfere with the village tree board, or village employees, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

(Ord. No. 231, § 18, 11-18-2003)

Sec. 30-49. Arborists license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the village without first applying for and procuring a permit. The permit fee shall be \$25.00 annually in advance; provided, however, that no permit shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 property damage indemnifying the village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. No. 231, § 19, 11-18-2003)

Sec. 30-50. Review by village council.

The village council shall have the right to review the conduct, acts, and decisions of the village tree board. Any person may appeal any ruling or order of the village tree board to the village council as hereinafter set forth. Any owner objecting to a notification or decision from the village tree board may submit a written request for hearing before the village council within ten days of receiving notification or a decision from the village

tree board. In that event, no further action regarding the notification or decision shall be taken by any party except as provided below. The village council will afford the owner an opportunity to present objections at the next regularly scheduled council meeting, not less than one week subsequent to receipt of the owner's written request in the village offices. After hearing the owner's objections, the council shall make a final determination of the matter.

(Ord. No. 231, § 20, 11-18-2003)

Sec. 30-51. Civil infraction.

Violations of this article shall be deemed municipal civil infractions and those who are responsible for said violations shall be subject to a civil fine in an amount to be set from time to time by the village council, which fine shall be in addition to any other remedies instituted under of this article.

(Ord. No. 231, § 21, 11-18-2003)

Secs. 30-52--30-60. Reserved.

Chapter 38 VEGETATION*

***Charter references:** Planting of trees, ch. IV, C, § 19.

Cross references: Buildings and building regulations, ch. 6; environment, ch. 10; fences, walls and hedges, ch. 12; land divisions and subdivisions, ch. 16; parks and recreation, ch. 22; planning, ch. 26; grass mowings, trimmings and leaves, § 28-11; streets, sidewalks and other public places, ch. 30; planting of trees in unpaved areas of right-of-way, § 30-31 et seq.; zoning, ch. 40.

State law references: Municipal forests, MCL 324.52701 et seq.

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ARTICLE I. IN GENERAL

Secs. 38-1--38-30. Reserved.

ARTICLE II. BRUSH, GRASS AND WEEDS*

***State law references:** Control and eradication of noxious weeds, MCL 247.61 et seq.

Sec. 38-31. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Weeds includes Canada thistle (*cirsium arvense*), dodders (any species of Brassica or Sinapes), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia aletior* 1.), poison ivy (*Rhus toxicodendron*), poison sumac (*toxicodendron vernis*), milkweed (*Asclepias cornutus*), oxeye daisies or other similar weeds or plants which constitute a common nuisance.

(Ord. No. 164, § I, 4-19-1983; Code 1992, § 20-1)

Cross references: Definitions generally, § 1-2.

Sec. 38-32. Public nuisance declared.

Any brush, grass or weeds of a height of six inches or more, which are growing or lying upon any property, are hereby declared to be a public nuisance.

(Ord. No. 164, § I, 4-19-1983; Code 1992, § 20-2)

Sec. 38-33. Duty of property owners or occupants.

It shall be the duty of the owner or occupant of land upon which any brush, grass or weeds are found to cause such brush, grass or weeds to be cut, destroyed or removed before they become a public nuisance.

(Ord. No. 164, § I, 4-19-1983; Code 1992, § 20-3)

Sec. 38-34. Failure to cut, destroy or remove.

An owner or occupant of land who fails or neglects to cut, destroy or remove brush, grass or weeds of a height of six inches or more shall be guilty of creating and maintaining a public nuisance, as outlined in this article.

(Ord. No. 164, § I, 4-19-1983; Code 1992, § 20-4)

Secs. 38-35--38-60. Reserved.

ARTICLE III. DUTCH ELM DISEASE*

*Cross references: Nuisances, § 10-31 et seq.

Sec. 38-61. Public nuisance declared.

Any elm tree within the village which is found to be infected with Dutch elm disease is hereby declared a public nuisance.

(Ord. No. 91, § 3, 8-1-1955; Code 1992, § 20-31)

Sec. 38-62. Spraying required twice each year; approved sprays; failure to comply; responsibility for expense.

(a) Every person who owns, or is in control of, any elm tree located within the village limits shall thoroughly spray the tree two different times each year. The first spray shall be applied just before the buds break, between March 15 and April 5, and the second spray shall be applied between July 5 and July 25.

(b) The spray material shall be an insecticide spray approved by the building department. The building department shall keep and have available at all times a list of such approved insecticide sprays.

(c) Failure or refusal by any owner or person in control of any elm tree within the village limits to spray the tree within 20 days after having been notified to do so by the village shall be guilty of a municipal civil infraction and shall be prosecuted as provided in this article.

(d) In lieu of any owner or person in control of an elm tree spraying the tree, such owner or person in control of such tree may, prior to the expiration of the 20-day period, authorize, in writing, the village to do such spraying, at the sole cost and expense of such owner or person in control.

(Ord. No. 91, § 1, 8-1-1955; Code 1992, § 20-32)

Sec. 38-63. Removal of diseased trees required; refusal; responsibility for expense.

(a) Every person who owns or is in control of an elm tree within the village limits which the village has determined is infected with Dutch elm disease shall cut down and remove such tree.

(b) Any owner or person in control of any elm tree located within the village limits which is determined to be infected with Dutch elm disease, who shall fail or refuse to cut down and remove such tree within 15 days after having been notified to do so by the village, shall be guilty of a municipal civil infraction and shall be prosecuted as provided in this article.

(c) In lieu of any such owner or person in control cutting down and removing such infected tree, such owner or person in control thereof may, prior to the expiration of the 15-day period, authorize, in writing, the village to cut down and remove such infected elm tree at the sole cost and expense of the owner or person in control.

(Ord. No. 91, § 2, 8-1-1955; Code 1992, § 20-33)

Sec. 38-64. Power of access for inspection on private property.

The village shall have the power to go upon any private land for the purpose of inspecting and determining whether any elm tree located on such land is, or may be, infected with Dutch elm disease, and if any elm tree is found to be so infected, to place a distinguishing mark on such tree, by blaze or otherwise.

(Ord. No. 91, § 4, 8-1-1955; Code 1992, § 20-34)

Sec. 38-65. Delivery of notice.

Any notice required to be given by the village under this article shall be sufficient if such notice is delivered to the owner or person in control of the property on which any elm tree is located within the village limits, or by mailing the notice to such person's last known address and posting a copy of such notice upon the premises where such tree is located.

(Ord. No. 91, § 5, 8-1-1955; Code 1992, § 20-35)

Sec. 38-66. Enforcement.

The provisions of this article shall be enforced by the building department.

(Ord. No. 91, § 6, 8-1-1955; Code 1992, § 20-36)