

CHAPTER 32

TREES, SHRUBS AND PLANTS ⁴⁹

3.31. Definitions.

The following definitions shall apply in the interpretation of this chapter:

DEPARTMENT shall mean the department of city services.

DIRECTOR shall mean director of city services.

OWNER shall include the person with legal or equitable title to the property, a lessee or tenant in possession of the property and any other person having control of or responsibility with respect to the property in such manner that he or she could reasonably be expected to take any action required by this chapter or to see that any acts prohibited by this chapter are not done.

PARK shall include all public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

PROHIBITED SPECIES shall mean any tree of the species of poplar (*Populus* spp.), willow (*Salix* spp.) and box elder (*Acer negundo*).

PUBLIC UTILITY shall mean any person 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 cable television service.

STREET shall mean all the land lying between property lines on either side of all streets, highways and boulevards in the city.

TREE, unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation. (1982 Code ?3.31; Ord., 8-14-92)

3.32. Responsibility.

The director shall be charged with the duty of enforcing the provisions of this chapter. (1982 Code ?3.32)

3.33. Permits for tree planting, care and removal.

The director shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this chapter. The owner of land abutting on any street may, upon obtaining prior written permission of the director, prune, spray,

plant or remove trees in that part of the street abutting his land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a tree, the director is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such tree. (1982 Code ?3.33)

3.34. Public tree planting, care and removal.

The department shall have the right to plant, trim, spray, preserve ⁵⁰ and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The director may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the director shall, if practicable, replace the same at public expense at some nearby location by planting another tree, plant or shrub, not necessarily of the same type. (1982 Code ?3.34)

3.35. Spacing of shade trees.

Future plantings of shade and ornamental trees in the streets, parks and public places of the city may be done by the department upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the city commission insofar as such rules and regulations do not conflict with any other provisions of this chapter. No future planting of shade and ornamental trees or shrubs in the highways, parks and public places by owners or anyone employed by them shall be permitted without the approval of the director and in compliance with the following rules as to spacing: Elm trees shall be spaced not less than forty (40) feet, oak trees not less than thirty-five (35) feet, and other shade and ornamental trees not less than thirty (30) feet. Provided, however, any owner of a single lot may, in order to provide a shade or ornamental tree in front of his lot, secure special permission from the department to plant a shade or ornamental tree within a less distance from an existing tree than the spacing above mentioned, but shall in no case make special planting within twenty (20) feet of any existing shade or ornamental tree located in the street or other public place. No tree shall be planted in parkways between the curb and sidewalk less than three and one-half (3 1/2) feet from the curblines, nor less than three (3) feet from the sidewalk; provided, however, where the parkways are less than six (6) feet six (6) inches in width any trees planted therein shall be located not less than two (2) feet six (6) inches from the curb and

as near midway between the curb and sidewalk as possible. No tree shall be planted nearer to the intersection of any streets than twenty (20) feet from the corner of such intersection ⁵¹ . (1982 Code ?3.35)

3.36. Tree protection ⁵² .

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten (10) feet of any tree, 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. No electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulator to any tree. No person shall use any tree as an anchor except by special written permit from the director, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of any tree, shall after notice thereof by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department. (1982 Code ?3.36)

3.37. Excavations near trees ⁵³ .

Excavations and driveways shall not be placed within five (5) feet of any tree without written permit from the director. Any person making such excavation or construction shall guard any tree within six (6) feet thereof with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four (4) feet from any tree. (1982 Code ?3.37)

3.38. Covering surface near trees.

No person shall place within the street right-of-way (excepting the street surface thereof) 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 tree, except a sidewalk of authorized width and location. (1982 Code ?3.38)

3.39. Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. In the event a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within twenty-four (24) hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and replacement, if required by the director, shall be levied against the owner of the pipe or main causing the damage. (1982 Code ?3.39)

3.40. Private trees-Obstructing public ways.

The owner of any tree on private property overhanging any street or right-of-way shall trim 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 ten (10) feet above the surface of the street or right-of-way. The city shall have the right to trim any tree or shrub on private property when it interferes with pedestrian or vehicular traffic, or with the proper spread of light along the street from a street light, or interferes with visibility of any traffic-control device or sign, such trimming to be confined to the area immediately above the right-of-way. (1982 Code ?3.40)

3.41. Removal of private trees.

Every owner of private property who removes or has removed a tree or trees or removes limbs from a tree or trees located on such property, or who suffers a tree or limbs therefrom to be damaged by the elements so as to require removal of such tree or limbs, shall within a reasonable time remove said tree or portion thereof from said premises. If the tree is in that portion of the premises which constitutes front yard or side yard adjacent to a public street under the city zoning ordinance ⁵⁴, and is so removed or damaged as to completely destroy it as a living tree, the tree shall be cut down to approximately ground level. Immediately following the removal of such tree or portion thereof, the owner of the premises shall restore the premises to a sightly condition, shall remove all debris therefrom from said premises and shall seed, sod or otherwise care for all uncovered soil so as to prevent blowing of dirt and dust and erosion of the soil. In case the owner of the premises shall fail to comply with the requirements of this section, the director shall give written notice of the requirements of this chapter and if such requirements are not met within seven (7) days after such notice is given, the director may carry out the removal and restoration required by this section and in such event the cost shall be a debt owing by the owner to the city. In case the owner shall fail to pay such cost within sixty (60) days after a bill for the same has been rendered, the director shall report the same to the city commission for collection as a single lot assessment in accordance with the City Charter ⁵⁵ and section [1.306](#) of this Code. (1982 Code ?3.41)

3.42. Private trees overhanging public ways.

The owners of any tree on private property overhanging any street or right-of-way or any abutting private property shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of persons or property on abutting public or private property. If limbs from a tree on private property overhang in such manner as to touch, including intermittent touching, buildings, trees or bushes or other structures, improvements or plantings, on abutting private property, it shall be the duty of the owner of the

property on which the tree is located to keep said tree trimmed so that the enjoyment of the abutting property is not interfered with. (1982 Code ?3.42)

3.43. Reserved.

3.44. Diseased and infested private trees.

When the director shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or disease, he shall forthwith serve a written notice upon the owner, in the manner specified in section [1.10](#) of this Code, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees, as may be reasonably necessary. Such notice shall be complied with within ten (10) days after service thereof upon the owner of the property on which the afflicted tree is located, or within such additional time as may be stipulated in such notice. (1982 Code ?3.44)

3.45. Diseased or infested shrubs and plants.

The director shall have the same authority with respect to diseased or infested shrubs, plants and vines as he has with respect to trees under section [3.44](#). (1982 Code ?3.45)

3.46. Dutch elm disease.

Every elm tree, regardless of species or variety, infected with the fungus *Ceratostomella ulmi*, popularly called Dutch elm disease, shall be cut and destroyed by burning or burying under a minimum of two (2) feet of earth; if on public property, within ten (10) days after the director shall learn of the condition and, if on private property, within ten (10) days after notice is given by the director in the manner provided in section [1.10](#) of this Code. No person shall possess, sell, give away or transport any tree afflicted with the fungus *Ceratostomella ulmi* nor any wood form, or parts of, any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning or burial pursuant to regulations issued by the Michigan Department of Agriculture. (Ord., 2-5-90)

3.47. Appeal.

In case the owner of the property shall feel himself aggrieved at an order of the director requiring the maintenance, treatment or destruction of any tree, shrub, plant or vine, he may within forty-eight (48) hours make an appeal to the city

commission in writing filed with the city clerk. The city commission shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter with the assistance of such expert advice and opinion as may be presented at such meeting. (1982 Code ?3.47)

3.48. Owner's failure to comply.

In case the owner of the property refuses to carry out the order of the director within the time limited, or in case of an appeal, within five (5) days after the commission shall have affirmed such order with or without amendment thereto, the director shall carry out the order and shall bill the owner of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within sixty (60) days after the same has been rendered, the director shall report the same to the city commission for collection as a single lot assessment in accordance with the City Charter ⁵⁶ and section [1.306](#) of this Code. The director may, without serving the above notice, when the owner shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems the same necessary on account of any infestation or disease or threat thereof. (1982 Code ?3.48)

3.49. Inspections.

The director, and other city employees or agents authorized by him, shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, plant or vine, or the product thereof, or injury to the same, if done by the director or under his direction, in accordance with this chapter. (1982 Code ?3.49)

3.50. Lawn extensions.

On residence streets, the abutting owner may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this chapter. No person shall willfully injure or destroy any grass, flower, tree or shrub upon any lawn extension or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such lawn extension. (1982 Code ?3.50)

3.51. Overhead utility lines, trimming permits.

The director shall grant permission to public utilities to trim and keep trimmed all trees within the streets, alleys, parks and public places of the city in such manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the department. Said permission shall require reasonable

prior notice to the city before work is commenced. Provided however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of said public utilities, prior notice of commencing work under said permit shall not be required. The word "emergency" as used in this section shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight and which might reasonably be expected to cause damage to the overhead lines of the public utilities. (1982 Code ?3.51)

3.52. Rules and regulations.

The director shall, with the approval of the commission, make such rules and regulations supplementary to this chapter, and not in conflict herewith, as he may from time to time deem necessary. The rules and regulations in effect at the adoption of this Code shall continue in effect until changed. No person shall fail to obey any rule or regulation effective hereunder. (1982 Code ?3.52)