

**CITY OF MARSHALL
ORDINANCE ##-07**

AN ORDINANCE TO AMEND SECTIONS 99.02, 99.06, AND 99.09 THROUGH 99.12 OF THE MARSHALL CITY CODE, CHAPTER 99 OF THE MARSHALL CITY CODE REGARDING TREES.

THE CITY OF MARSHALL ORDAINS:

TREES

Section 1. SECTIONS 99.02 of the Marshall City Code is hereby amended to read as follows:

§ 99.02 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURB LAWN. The part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.

DEPARTMENT. The Department of Public Works of the city or designated agent(s) for the city.

DEVELOPER. All persons or organizations of any kind engaged in construction or improvements that require site plan or subdivision approval.

PARK. All public parks or properties owned by the city to which the public has free access as a park.

PROHIBITED SPECIES. Poplar, willow, box elder, silver maple, black locust, horse chestnut, tree of heaven, catalpa, mulberry, Siberian elm and any other species so determined by the City.

PUBLIC UTILITY. A person, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or city regulations to the public gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

STREET. Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway or a street or way shown in a plat heretofore approved pursuant to law or approved by official action or, a street or way

on a plat filed and recorded in the office of the county register of deeds. A STREET includes the land between the street right-of-way lines, whether improved or unimproved, and may comprise of pavement, shoulders, gutters, sidewalks, parking areas and lawns.

~~*SUPERINTENDENT.* The Superintendent of the Department or authorized representative~~

TREE. Trees, shrubs, bushes, and all other woody vegetation, whether potted or not.

(B) The provisions of this chapter, except as otherwise specifically stated herein, shall apply only to public streets, curb lawns, parkways, parks, cemeteries and other land publicly owned or controlled by the city.

Section 2. SECTIONS 99.06 of the Marshall City Code is hereby amended to read as follows:

§ 99.06 DEVELOPER'S OR PROPERTY OWNERS RESPONSIBILITY.

(A) Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the city including, but not limited to subdivision regulations and site plan requirements.

(1) One (1) tree of a species approved by the City, measuring at least two (2) to two and one-half (2 ½) inch caliper shall be planted in the curb lawn at all new construction sites, residential or otherwise, for each site or lot of 80 feet or less, and at least two trees for every lot in excess of 80 feet frontage. Corner lots shall require at least one (1) tree for each street. The developer shall show the location of the required trees on all approved site plans. Variations from these guidelines, upon the recommendations of city staff or the agent designated by the city, may be approved by the Planning Commission. The developer shall be responsible for planting the required trees or shall escrow funds with the city in an amount approved by the City for planting the required trees prior to the issuance of a certificate of occupancy.

(2) Whenever greenbelts are required, applicants for permits shall comply with *Article 20 Landscaping and Screening Standards of Chapter 156 of the Zoning Ordinance.*

(3) Whenever the requirements of *Article 20 Landscaping and Screening Standards of Chapter 156 of the Zoning Ordinance* are applicable, the plans shall be reviewed by a licensed landscape architect appointed by the city.

(4) The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves and similar community assets that will add attractiveness and value to the property, if preserved.

(5) When a shade tree is planted under the electrical power lines, the following understory species shall be allowed to assure that the tree will not be in conflict with the power lines unless otherwise approved by the City: crabapples, hawthorns, pears, redbud, dogwoods, lindens or other similar species.

Section 3. SECTIONS 99.09 of the Marshall City Code is hereby amended to read as follows:

§ 99.09 AUTHORITY OF CITY TO INSPECT TREES ON PRIVATE PROPERTY.

Upon notifying the property owner or occupant, the Department of Public Works Superintendent or designated city agent shall have the authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects or diseases are suspected which may be detrimental to the public welfare and may remove such specimens as are required for analysis to determine the presence of insect, disease or other detrimental conditions.

Section 4. SECTIONS 99.10 of the Marshall City Code is hereby amended to read as follows:

§ 99.10 PRIVATE TREES; DISEASE, INSECT AND OTHER HAZARDS.

(A) When the Department of Public Works Superintendent shall discover that any tree growing on private property within the city is afflicted with any dangerous insect, infestation, disease or condition, ~~he or she~~ *a written notice* shall immediately be served a ~~written notice~~ upon the property owner or his or her agent describing the tree or trees, their location, the nature of the insect infestation, disease or condition and, to prevent the spreading thereof, shall specify the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary. Every such notice shall state a specific time period within which compliance shall be required; provided however, all notices shall provide at least ten (10) days after service thereof for compliance.

(B) If, at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, the city's Department of Public Works or designated city agent shall *notify the City Attorney who shall seek relief in a court having jurisdiction* ~~be authorized~~ to carry out the requirements of the notice. The cost of completing the work necessary to resolve the condition complained in addition to any attorney fees ~~of~~ shall be assessed against the property on the next general assessment roll of the city and collected and enforced in the manner as real property taxes are collected.

Section 5. SECTIONS 99.11 of the Marshall City Code is hereby amended to read as follows:

§ 99.11 TRIMMING AND REMOVAL OF TREES ON PRIVATE PROPERTY.

(A) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a traffic hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove the obstruction from the public street, highway, sidewalk, park or public place and so as to eliminate the traffic hazard and the menace and the danger to the public, pursuant to written notice by and under the supervision of the Department of Public Works Superintendent. When the notice is given, the property owner will be given a reasonable and definite time to comply with the order, but not less than ten (10) days unless immediate hazard exists.

(B) If the work is not satisfactorily completed within that time, then the Department of Public Works Superintendent or a designated city agent may enter the property, make necessary trimming or removals and properly dispose of the same; and the costs involved in the trimming or removal when done by the Department or designated city agent shall be assessed against the property on the next general assessment roll of the city and collected and enforced in the manner as real property taxes are collected.

Section 6. SECTIONS 99.12 of the Marshall City Code is hereby amended to read as follows:

§ 99.12 ENFORCEMENT.

The Department of Public Works Superintendent is hereby designated as the agent of the city to enforce the provisions of this chapter or a qualified agent designated by the City.

Section 7. This Ordinance [or a summary thereof as permitted by MCL 117.3(k)] shall be published in full in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices, within ten (10) days after its adoption. This ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 8. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this _____ day of _____, 2007.

Bruce Smith, MAYOR

Tracy Hovarter, CLERK-TREASURER