

Farmington Hills, MI - Tree Ordinance - 2008

ARTICLE I. IN GENERAL

Sec. 31-1. Definitions; interpretation.

(a) 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:

Department means the department of public services, division of public works of the city.

Park includes 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 means any tree of the species of poplar (*Populus sp.*), willow (*Salix sp.*) and box elder (*Acer negundo*).

Public utility means 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 telegraph service.

Street means all of the land lying between property lines on either side of all streets, highways and boulevards in the city.

Tree means trees, shrubs, bushes and all other woody vegetation.

(b) The terms of this chapter, unless otherwise specifically stated, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.
(Code 1981, § 13.010)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 31-2. Permits for tree planting, care, removal.

The city manager shall have control over all trees located within the street right-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 of public services, prune, spray, plant or remove trees in that part of the street abutting such owner's 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 of public services is authorized, in the director's discretion, to require as a condition to the granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department, assume all or any part of the costs of removing such tree, and also to require that the tree removed be replaced at some other nearby location by planting another tree, not necessarily of the same type.

(Code 1981, § 13.020)

Sec. 31-3. Public improvement by tree planting or removal; assessment of costs.

Upon recommendation of the department for the planting of trees within any street right-of-way, the city manager shall investigate the desirability of the project and if the city manager shall approve thereof, the city manager shall report the same to the council. Upon approval by the council, such planting shall be undertaken as a public improvement and the cost assessed to the property benefitted thereby in accordance

with the provisions of the charter. Removal of undesirable trees, either of a prohibited species or of other undesirable varieties may be undertaken and the cost assessed in the same way. Upon petition of the owners of more than fifty (50) percent of the frontage along one (1) or more blocks in any street, or upon its own initiative, the council may, by resolution, provide for the planting or removal of trees without any report by the department or recommendation of the city manager. The petition provided for in this section shall be advisory only and shall not be binding upon or a condition to any such resolution of the council.

(Code 1981, § 13.030)

Sec. 31-4. Removal of dead, diseased and prohibited trees.

All dead trees and trees afflicted with any fatal or communicable disease shall be removed by the department or private contractor with the approval of the director of public services. The city manager is authorized to direct the department to remove any tree of a prohibited species, but the cost of such removal shall not be assessed against the property benefitted unless the council shall have approved the removal under the provisions of the preceding section.

(Code 1981, § 13.040)

Sec. 31-5. Removal of undesirable trees.

Trees may be removed which are not dead or infected with any disease when such trees are of an undesirable (though not prohibited) species, but only upon notice to the owner of the abutting property, and if such owner shall file written objection with the city clerk within seven (7) days after service of such notice, a public hearing on such removal shall be had before the council. The abutting owner shall be notified of the time and place of such hearing. The cost of any such removal shall not be assessed to the property benefitted thereby unless the council shall order such removal originally under the provisions of section 31-3. The director of public services is authorized to direct the department to remove any tree growing within any street, park or public place when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic-control devices or construction within street rights-of-way or otherwise hinders municipal operations.

(Code 1981, § 13.050)

Sec. 31-6. Tree planting regulations.

No tree of any prohibited species shall be planted in any street or park, nor shall any such tree be planted on any private property within fifty (50) feet of any street, sidewalk or sewer right-of-way. Shade trees planted in street rights-of-way shall be spaced as required by the city manager or authorized representative in conformance with the recommendations of the state agricultural department or other recognized authorities. In no event shall any tree be placed closer than six (6) feet to any water, sewer or gas service.

(Code 1981, § 13.060)

Sec. 31-7. Tree protection.

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 harmful chemicals or other materials injurious to a tree 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 may cause

damage to any tree. No person shall use any tree as an anchor, 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.

(Code 1981, § 13.070)

State law references: Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.

Sec. 31-8. Excavated near trees.

Excavations and driveways shall not be placed within six (6) feet of any tree without written approval from the director of public services. 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. All persons desiring to make such excavation or construction shall deposit with the city a sum sufficient to cover the cost of inspection and any damage which may result therefrom. The amount of such deposit shall be established by resolution of the council.

(Code 1981, § 13.080)

Sec. 31-9. Covering surface near trees.

No person shall place within the street right-of-way 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.

(Code 1981, § 13.090)

Sec. 31-10. Gas main leakage.

Gas pipes or mains within any public right-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If 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 the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.

(Code 1981, § 13.100)

Sec. 31-11. Visibility at intersections.

All shrubs and bushes located on the triangle formed by the two (2) right-of-way lines at the intersection of two (2) streets, and extending for a distance of twenty-five (25) feet each way from the intersection of the right-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than thirty (30) inches in height from top of curb at street level in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section shall be notified by the director of public services in the manner provided in section 1-14 of this Code to do so. Such notice shall require trimming in conformity with this section within ten (10) days after the date of such notice. Upon the expiration of such period, the director of public services may cause the trimming to be done and the cost thereof may be collected from the owner of the property as a single lot assessment in accordance with section 25-26.

(Code 1981, § 13.110)

Cross references: Corner clearance, § 34-549.

Sec. 31-12. Diseased, infested trees on private property.

When the director of public services shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or tree disease, the director shall forthwith serve a written notice upon the owner or the director's agent, or the occupant of the property, in the manner specified in section 1-14. Such notice shall describe the tree, its location and the nature of the infestation or tree disease and order the owner, agent and occupant 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. Every such notice shall be complied with within ten (10) days after service thereof upon the owner, agent or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in such notice.

(Code 1981, § 13.120)

Cross references: Nuisances generally, Ch. 17.

Sec. 31-13. Appeals.

In case the owner, agent or occupant of the property shall feel aggrieved at an order of the city requiring the treatment or destruction of any tree, such person may within forty-eight (48) hours make an appeal to the council by communication filed with the city clerk. The council shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

(Code 1981, § 13.130)

Sec. 31-14. Private trees--Owner's failure to comply.

In case the owner, agent and occupant of the property refuse to carry out the order of the city manager or the director of public services within the time limited, or in case of an appeal, within five (5) days after the council has affirmed such order, the director of public services shall carry out the pruning, spraying or destruction of the trees as deemed necessary by the director and shall bill the owner, agent or occupant 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 city manager shall report the same to the council for collection as a single lot assessment against the property in accordance with section 25-26. The city manager may, without serving the above notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when it is deemed necessary on account of any infestation or disease or threat thereof.

(Code 1981, § 13.140)

Sec. 31-15. Examination of trees on private property.

The city manager, the director of public services and their assistants and employees 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 or plant or fruit or injury to the same, if done by the city manager or under the city manager's direction in accordance with this chapter.

(Code 1981, § 13.150)

Sec. 31-16. Planting on lawn extensions.

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension within the street right-of-way and may plant flowers, trees and shrubbery therein in conformity with this chapter. No person shall wilfully injure or destroy any grass, flower, tree or shrub upon any such planting strip, or throw any papers, refuse or other matter thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip. It shall be unlawful to place any rock, stone or similar items in the right-of-way which create a hazard to the motoring public or city maintenance vehicles.

(Code 1981, § 13.160)

Sec. 31-17. Trimming to clear overhead lines; permit.

The city manager 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 a 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. Such permission under this section shall require reasonable prior notice to the city before any work is commenced. In the event of an emergency requiring immediate maintenance work on the overhead lines of the public utilities, prior notice of commencing work under the 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, which might cause damage to the overhead lines of the public utilities.

(Code 1981, § 13.170)

Sec. 31-18. Supplementary rules and regulations.

The city manager shall make such rules and regulations supplementary to this chapter and not in conflict herewith as the manager may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

(Code 1981, § 13.180)

Secs. 31-19--31-35. Reserved.

ARTICLE II. DUTCH ELM DISEASE*

*Cross references: Nuisances, Ch. 17.

Sec. 31-36. Declared nuisance.

Trees of all species and varieties of elm, selkova and planera affected with the fungus *Ceratostomella ulmi*, known as Dutch elm disease, as determined by laboratory analysis, are hereby declared to be a public nuisance. Such trees shall be removed and disposed of within ten (10) days following notification of the discovery of such infection. It

shall be unlawful for the owner of property whereon such a tree is situated to possess or keep such a tree after the expiration of ten (10) days following notification of the discovery of such infection.

(Code 1981, § 13.310)

Sec. 31-37. Dead or dying trees.

Trees or parts thereof of elm or planera in a dead or dying condition that may serve as a breeding place for the European Elm Bark Beetle, *Scolytue multistriatus*, or the American Bark Beetle, *Hylurgopinus rufipes*, are hereby declared to be a public nuisance. It shall be unlawful for the person owning property whereon such trees or parts thereof are situated to possess or keep the same.

(Code 1981, § 13.320)

Sec. 31-38. Inspection of trees on private property.

The department of public services is charged with the enforcement of this article and to that end may enter upon private property at all daylight hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether the same are infected. It shall be unlawful for any person to prevent the department of public services from entering on private property for purposes of carrying out its duties under this article, or to interfere with the department of public services in the lawful performance of its duties under the provisions of this article.

(Code 1981, § 13.330)

Sec. 31-39. Notice to remove diseased trees.

If trees on private property are found to be infected, the department of public services shall send to the owner of the premises where such tree or trees are situated written notice of the existence of such disease, and requiring the removal and disposal of such trees within a period to be under the direction and supervision of the department of public services. Such notice shall also notify the owner of the premises that unless such tree is removed and disposed of in compliance with the terms thereof within such ten-day period, the city will proceed with the removal and disposal of such tree and assess the cost thereof against the property. Service of such notice shall be as prescribed in section 1-14.

(Code 1981, §§ 13.340, 13.350)

Sec. 31-40. Duty of property owners.

Upon notice from the city as provided in section 31-39 it shall be the duty of the owner of the premises to cause such tree to be removed and disposed of under the direction and supervision of the department of public services or it's authorized deputy or employee. In lieu thereof, the person charged with such removal and disposal may request that the same be done by the department of public services. If the city removes and disposes of any tree, all expenses incurred in connection therewith shall be reported for assessment against the land whereon such tree was situated.

(Code 1981, § 13.360)

Sec. 31-41. Diseased trees on public land.

Diseased trees on public land within the city shall be removed at the expense of the city.

(Code 1981, § 13.370)

Sec. 31-42. Interference with enforcement.

No person shall prevent, delay or interfere with the department of public services or any of its assistants in the execution of enforcement of this article; provided, however, that nothing herein shall be construed as an attempt to prohibit a public hearing on any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(Code 1981, § 13.380)

Sec. 31-43. Appeals.

If any person is dissatisfied with a decision of the department of public services, or its authorized agent, such person shall have the right to appeal the decision within ten (10) days. Such person may make a written request to the department of public services within ten (10) days of the date of its decision. The director of public services, together with the city manager and the city clerk, shall hear any such appeals. Upon completion of the hearing, the appeal board shall render its written opinion affirming, overruling or modifying the order.

(Code 1981, § 13.390)