

Chapter 35

VEGETATION*

* **Cross References:** Grass and noxious weeds, § 18-121 et seq.; plant materials, § 38-384.
State Law References: Care of trees and shrubs, MCL 247.241 et seq., MSA 9.361 et seq.

Art. I. In General, §§ 35-1--35-30

Art. II. Private Trees, §§ 35-31--35-34

ARTICLE I.

IN GENERAL

Sec. 35-1. 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:

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

Prohibited species shall mean any tree of poplar (*Populus Sp.*), willow (*Salix Sp.*), box elder (*Acer Negundo*), silver maple (*Acer Saccharium*), locust (*Robina Sp.*), tree of heaven (*Ailanthus Altissima*), catalpa (*Catalpa Sp.*), mulberry (*Morus Sp.*) and Siberian elm (*Ulmus pumilia*).

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 telegraph 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.

(Code 1977, § 3.31)

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

Sec. 35-2. Application.

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

(Code 1977, § 3.31(7))

Sec. 35-3. Responsibility.

The public services director shall be charged with the duty of enforcing the provisions of this chapter. (Code 1977, § 3.32)

Sec. 35-4. Rules and regulations.

The city manager shall make such rules and regulations supplementary to this chapter and not in conflict herewith, as he or she may from time to time deem necessary, to be effective upon approval by the council. 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 1977, § 3.46)

Sec. 35-5. Permits for tree planting, care, removal.

The public services 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 public services director is authorized, in his or her 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 public services department and assume all or any part of the costs of removing such tree. (Code 1977, § 3.33)

Sec. 35-6. Public tree removal.

The public services department shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety or to preserve the symmetry and beauty of such public grounds. The public services 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. (Code 1977, § 3.34)

Sec. 35-7. Spacing of shade trees.

Future plantings of shade and ornamental trees in the streets and parks of the city will be done by the public services department in accordance with prescribed tree planting practices. Elm trees shall be spaced not less than sixty (60) feet, oak trees not less than fifty (50) feet, and other shade and ornamental trees not less than forty-five (45) feet. No trees shall be planted in the parkway between the curb and sidewalk when that area is

less than three (3) feet wide. No tree shall be planted nearer to the intersection of any streets than twenty-five (25) feet from the corner of such intersection.
(Code 1977, § 3.35)

Sec. 35-8. Tree protection.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within twenty-five (25) feet of any tree, or permit any fire, or the heat therefrom, 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 insulation to any tree. No person shall use any tree as an anchor except by special written permit from the public services 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 public services department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department. The director of the department shall certify all city permits for construction, installation, altering, moving or razing of all buildings, utilities, sidewalks, sewers or other operations where trees or shrubs, or parts thereof, are involved.
(Code 1977, § 3.36)

Sec. 35-9. Excavations near trees.

Excavations and driveways shall not be placed within five (5) feet of any tree without written permission from the public services 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 public services department. All building material or other debris shall be kept at least four (4) feet from any tree.
(Code 1977, § 3.37)

Sec. 35-10. 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 1977, § 3.38)

Sec. 35-11. 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. 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 1977, § 3.39)

Sec. 35-12. Lawn extensions.

On residential streets, the abutting owner or occupant 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 wilfully injure or destroy any grass, flower, tree or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.
(Code 1977, § 3.44)

Sec. 35-13. Overhead lines; trimming permits.

The public services 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 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 public services department. Permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. Provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of 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, which might cause damage to the overhead lines of the public utilities.
(Code 1977, § 3.45)

Secs. 35-14--35-30. Reserved.

ARTICLE II.

PRIVATE TREES

Sec. 35-31. Clearance.

Every owner of any tree on private property overhanging any street or right-of-way within the city 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 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 city shall have the right to trim any tree or shrub on private property when it interferes 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.
(Code 1977, § 3.40)

Sec. 35-32. Diseases and infestations.

When the public services director shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or tree disease, he or she shall forthwith serve written notice upon the owner or his or her agent, or the occupant of the property, in the manner specified in section 1-9, describing the tree, its location and the nature of the infestation or tree disease and ordering the

owner, agent and occupant to take such measures as may be reasonably necessary to curb 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 1977, § 3.41)

Sec. 35-33. Owners failure to comply.

In case the owner, agent or occupant of the property refuse to carry out the order of the public services director within the time limited, or in case of an appeal, within five (5) days after the council shall have affirmed such order, the director shall carry out the pruning, spraying, or destruction of the trees as deemed necessary by him or her 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 director shall report the same to the council for collection as a single lot assessment against the property in accordance with the Charter. The director 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 he or she deems the same necessary on account of any infestation or disease or threat thereof.
(Code 1977, § 3.42)

Sec. 35-34. Inspection.

The public services director and his or her 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 director or under his or her direction, in accordance with this chapter.
(Code 1977, § 3.43)