

City of Battle Creek – Tree Ordinance

CHAPTER 1026

Trees

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CROSS REFERENCE

Box elder trees, female, as nuisance - see M.C.L.A. Sec. 124.151

Cutting or destroying - see M.C.L.A. Secs. 247.235, 247.241, 752.701 et seq.

Malicious destruction - see M.C.L.A. Sec. 750.382

Weeds and noxious vegetation - see GEN. OFF. Ch. 692

Tree trimming, cutting or removing - see B.R. & T. Ch. 860

1026.01 PURPOSE AND APPLICABILITY.

(a) It is the purpose of this chapter to promote and protect the public health, safety and general welfare of the City by providing for the regulation of the planting, maintenance and removal of trees and shrubs located in and on public places, curb lawns and street rights-of-way within the City.

(b) This chapter, except as otherwise stated, shall apply only to public streets, curb lawns, parks and other land publicly owned or controlled by the City.

(Ord. 17-01. Passed 12-4-01.)

1026.02 DEFINITIONS.

As used in this chapter:

(a) "Annual Tree Work Plan" means the annual plan outlining work to be carried out in the coming year as announced in December of each year by the Director of Public Works.

(b) "Curb lawn" means the area between the street curb and sidewalk on streets with curbs and gutters and the area between the traveled portion of the road and the dedicated public right-of-way on all other streets or roads.

(c) "Department" means the Department of Public Works.

(d) "Director" means the Director of the Department or the authorized representative of the Director.

(e) "Park" means all public parks having individual names and all areas owned by the City or to which the public has access as a park.

(f) "Prohibited species" means poplar, willow, box elder, silver maple, locust, tree of heaven, catalpa, mulberry, or Chinese elm trees.

(g) "Public tree" means any tree located in or on a street right-of-way, curb lawn, park, or other land publicly owned or controlled by the City.

(h) "Public utility" means any person owning or operating a pole, line, pipe, or conduit located in a public right-of-way or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone or telecommunication service including but not limited to cable television.

(i) "Tree" unless the context clearly indicates otherwise, includes trees, shrubs, bushes and all other woody vegetation.

(j) "Tree Advisory Council" means a committee formed for the purpose of developing guidelines related to the implementation and enforcement of this chapter, the Annual Tree Work Plan, and other measures that insure a healthy urban forest.

(Ord. 17-01. Passed 12-4-01.)

1026.03 RESPONSIBILITY OF DIRECTOR OF PUBLIC WORKS.

(a) The Director of Public Works is charged with the duty of enforcing this chapter and is responsible for creating the Annual Tree Work Plan.

(b) The Director of Public Works, or the designated representative of the Director, will take into account the advice of the Tree Advisory Council in making decisions regarding tree management and in creating the Annual Tree Work Plan.

(Ord. 17-01. Passed 12-4-01.)

1026.04 PLANTING, CARE AND REMOVAL; PERMIT REQUIRED.

(a) The Director of Public Works shall have control over all trees located within curb lawns, street rights-of-way and parks in the City and the planting, care and removal thereof, subject to the regulations contained in this chapter.

(b) Citizens wishing to plant, prune, or remove a tree in the curb lawn or public right-of-way must apply for a permit. Application for such a permit shall be submitted to the Department of Public Works and shall include the applicant's name and address as well as the location of the tree, species of tree to be planted, pruned, or removed, and such other information as the Director of Public Works may require.

(c) The Director is authorized to require as a condition to granting of approval for such work that the work be done in accordance with applicable American National

Standards Institute (ANSI) standards and that the citizen assume all or part of the cost of such work.

(d) A person who violates this section is responsible for a Class E Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.05 PUBLIC TREE REMOVAL.

The Department of Public Works shall have the right to plant, trim, spray, preserve and remove trees, plants and other vegetation within the lines of all streets, alleys, parks and other public places owned or controlled by the City as may be necessary to insure safety or preserve the symmetry and beauty of such public grounds. The Director of Public Works 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 which is infected with any injurious disease, fungus, insect, or other pest. Whenever the Department removes a tree solely for the purpose of constructing a public work, the Director shall, whenever practical and if so recommended by the Tree Advisory Council, replace the same at public expense at some nearby location by planting another tree, not necessarily the same type.

(Ord. 17-01. Passed 12-4-01.)

1026.06 SPACING OF SHADE AND ORNAMENTAL TREES.

Plantings of shade and ornamental trees in streets and parks of the City shall be done by the Department of Public Works in accordance with prescribed tree planting practices. Elm trees shall be spaced not less than sixty feet apart. Oak trees shall be spaced not less than fifty feet apart. Other shade and ornamental trees shall be spaced not less than forty-five feet apart. No trees shall be planted in the curb lawn when that area is less than three feet wide. All trees shall be planted mid-way in the curb lawn. No tree shall be planted nearer than twenty-five feet from intersecting rights-of-way of any streets.

(Ord. 17-01. Passed 12-4-01.)

1026.07 PROTECTION OF PUBLIC TREES.

(a) No person shall break, cut down, damage, injure, poison, or in any other manner, intentionally destroy or cause to be destroyed, or remove, any tree, or part thereof located within the public streets, curb lawns, parks, or within any other land

publicly owned or controlled by the City except in accordance with the provisions of this chapter.

(b) No person shall set fire within twenty-five feet of any public tree or permit any fire or the heat thereof to injure any portion of any public tree. No toxic chemicals or any other injurious materials to trees shall be allowed to seep, drain, or be emptied on, near or about any public tree. No electrical wires or other lines or wires shall be permitted to come into contact with any tree in any manner that causes damage thereto and no person shall attach any electric insulation to any public tree.

(c) No person shall use any public tree as an anchor, except by special written permission from the Director of Public Works, and no material shall be fastened to or hung on any public tree. All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of a public tree shall, after notice from the Department of Public Works, promptly abate such interference in such a manner as will permit the trimming or removal of such tree by the Department. The Director shall certify all City permits for construction, insulation, alteration, moving or raising of all buildings, utilities, sidewalks, sewers or other facilities or operations where public trees or parts thereof are involved.

(d) A person who violates this section is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.08 EXCAVATIONS AND DRIVEWAYS NEAR TREES.

(a) No person shall place driveways or excavations within five feet of any public tree without obtaining a written permit from the Director of Public Works.

(b) A person who violates this section is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.09 PRIVATE TREE CLEARANCE.

(a) An owner of a tree on private property overhanging a street or public right-of-way in 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, so as to maintain a clear space of not less than fifteen feet above the surface of the street, sidewalk or right-

of-way. Such owner shall remove all dead, diseased or dangerous trees and broken or decayed limbs, which constitute a menace to the safety of the public. The City shall have the right to trim a tree, bush or shrub on private property when such interferes with the proper spread of light along a street from a street light or with the visibility of a traffic control device or sign. Such trimming is to be confined to the area immediately above the right-of-way.

(b) No shrub or bush located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of twenty-five feet each way from the intersection of the right-of-way lines on any corner lot within the City, shall be permitted to grow to a height of more than thirty inches from the top of the shrub or bush at the street level, in order that the view of the driver of a vehicle approaching such an intersection shall not be obstructed. Trees may be planted and maintained on private property on this area provided that all branches are trimmed to maintain a clear vision for a vertical height of ten feet above the roadway surface.

(c) A property owner who fails to trim any trees, shrubs or bushes or take other ordered corrective action in conformity with this section shall be notified by the Director of Public Works in the manner provided in Section 202.04, to do so and such notice shall require that such trimming be done in conformity with this section within fourteen days after the date of such notice or within such additional time as may be stipulated in such notice. Upon the expiration of such period, the Director may cause the trimming to be done and the cost thereof may be collected from the owner of such property as a single lot assessment in accordance with Chapter 216 of the Administration Code.

(d) A person who violates this section is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.10 DISEASED OR INFESTED PRIVATE TREES.

(a) When the Director of Public Works discovers that a tree growing on private property overhanging a street or public right-of-way within the City is afflicted with a dangerous or infectious insect infestation or tree disease, he or she shall serve a written notice upon the owner of the property in the manner provided in Section 202.04. The notice shall describe the tree, its location, and the nature of the infestation or tree disease and order the owner, agent or occupant to take such measures as may be reasonable and necessary to curb such infestation or disease and prevent the spreading thereof. Such notice shall also specify the measures to be taken. Such measures may require the pruning, spraying or destruction of the trees as is reasonably necessary

(b) If the owner, agent or occupant of the property refuses to carry out the order of the Director of Public Works within the time limit, the Director shall carry out the pruning, spraying or destruction of the tree as deemed necessary by him or her and shall bill the owner, agent or occupant of the property for the cost thereof. If the owner, agent or occupant of such property fails to pay such bill within sixty days after the same has been rendered, the Director shall report such to the City Commission for collection as a single-lot assessment against the property in accordance with Chapter 216 of the Administration Code. The Director may, without serving the above notice when the owner or occupant of any private property consents and pays the reasonable cost thereof, cause trees growing on a private lot to be sprayed when he or she deemed the same necessary on account of any infestation of disease or threat thereof.

(c) A person who violates this section is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.11 OVERHEAD LINES TRIMMING PERMIT REQUIRED.

The Director of Public Works shall grant permission to public utilities to trim and keep trimmed all public 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 trimmings shall be done in accordance with approved practices and under the general direction of the Department of Public Works. Such permission shall require reasonable prior notice of the City before any work is commenced. However, if an emergency requires immediate maintenance work on the overhead lines of such public utilities, prior notice of work commencement under such permit is not required. As used in this section, "an emergency" means a sudden occurrence or happening of a natural or man-made event, which could not be foreseen by the exercise of reasonable care and foresight, causing damage to the overhead lines of the public utilities.

(Ord. 17-01. Passed 12-4-01.)

1026.12 LAWN EXTENSION.

(a) On residential streets, the abutting owner or occupant may maintain a planting strip within the curb lawn and may plant flowers, trees, shrubs and bushes thereon in conformity with this chapter. No person shall willfully injure or destroy any grass, flower, tree, bush or shrub upon any such planting strip or throw any papers, refuse or anything thereon. No person shall drive a motor vehicle or human powered device upon or over any such planting strip except in the act of performing maintenance upon such

area. No person shall place any stones, gravel, broken brick, or similar loose material within any lawn extension of the City.

(b) A person who violates this section is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(Ord. 17-01. Passed 12-4-01.)

1026.13 RULES AND REGULATIONS.

The City Manager, upon the advice of the Tree Advisory Council, shall make such rules and regulations supplementary to this chapter and not in conflict herewith as may from time to time be deemed necessary. Such rules and regulations shall be effective upon approval by the City Commission. Until changed pursuant to this section, rules and regulations in effect at the time of the adoption of this chapter shall continue in effect. No person shall fail to obey any rule or regulation effective under this chapter.

(Ord. 17-01. Passed 12-4-01.)

1026.14 TREE ADVISORY COUNCIL.

(a) The City Commission shall appoint a Tree Advisory Council composed of at least three, but no more than seven persons consisting of individuals having an interest or expertise in the fields of tree horticulture, landscape design, architecture, municipal planning, and public works.

(b) Individuals appointed to the Tree Advisory Council shall serve for a period of three years or until their successor is appointed.

(c) The Tree Advisory Council shall serve solely in an advisory capacity to the Director of Public Works and City Manager in the development of the Annual Tree Work Plan and the issuance of rules and regulations supplementary to this chapter.

(d) The Tree Advisory Council shall meet at least once a year in September to provide advice and input to the Director of Public Works for the Annual Tree Work Plan.

(Ord. 17-01. Passed 12-4-01.)

1026.99 PENALTY.

A person who violates any of the provisions of this chapter, for which no penalty is otherwise provided, shall be subject to the penalty provided for in Section 202.99.

(Ord. 17-01. Passed 12-4-01.)