

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN THE PUBLIC STREETS, PARKWAYS, AND OTHER MUNICIPAL-OWNED PROPERTY: ESTABLISHING A MUNICIPAL ARBORIST AS THE AGENCIES PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE AND REMOVAL OF TREES IN PUBLIC PLACES: PROVIDING FOR THE ISSUING OF PERMITS FOR THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES: PROVIDING FOR THE PRUNING AND REMOVAL OF TREES ON PRIVATE PROPERTY WHICH ENDANGER PUBLIC SAFETY: AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1304.01 Short Title.

This Ordinance shall be known and may be cited as the Municipal Tree Ordinance of the City of Oak Park Heights, County of Washington, State of Minnesota.

1304.02 Definitions.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word shall is mandatory and not merely directory.

- A. “Municipality” is the City of Oak Park Heights, County of Washington, State of Minnesota.

- B. “Park and Street Trees Department” is the department of "Parks and Street Trees," "Parks and Forestry," "Forestry," "Street Trees," or other designated department of the City under whose jurisdiction park and/or street trees fall.

- C. “Municipal Arborist” is the Municipal Arborist, Forester, Tree Warden, or other qualified designated official of the City of Oak Park Heights, assigned to carry out the enforcement of this Ordinance.

- D. “Person” is any person, firm, partnership, association, corporation, company, or organization of any kind.

- E. “Street or Highway” means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- F. “Park” shall include all public parks having individual names.
- G. “Public Places” shall include all other grounds owned by the City of Oak Park Heights.
- H. “Property Line” shall mean the outer edge of a street or highway.
- I. “Tree Lawn” is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
- J. “Public Trees” shall include all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.
- K. “Large Trees” are designated as those attaining a height of forty-five (45) feet or more.
- L. “Medium Trees” are designated as those attaining a height of thirty (30) to forty-five (45) feet.
- M. “Small Trees” are designated as those attaining a height of twenty (20) to thirty (30) feet.
- N. “Principal Thoroughfare” shall mean any street upon which trucks are not prohibited.
- O. “Property Owner” shall mean the person owning such property as shown by the County Auditor's Plat of Washington County, State of Minnesota.

1304.03

Appointment and Qualifications of the Municipal Arborist.

The Municipal Arborist shall be appointed by the City Council. Upon satisfactory completion of a six (6) months probationary period, the Arborist shall hold office at the pleasure of the Council. The Arborist shall be a person skilled and trained in the arts and sciences of municipal arboriculture and shall hold a college degree or its equivalent in arboriculture, ornamental or landscape horticulture, urban forestry, or other closely related field. If, in the State of Minnesota there is a State Arborist Examining Board, the Arborist shall have passed the State examination. The Arborist shall have had at least three (3) years experience in municipal shade tree work or its equivalent.

- 1304.04 Salary.
The Municipal Arborist shall receive a salary established by Council resolution from time to time.
- 1304.05 Duties.
The Municipal Arborist shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the City of Oak Park Heights. He shall cause the provisions of this Ordinance to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the municipality.
- 1304.06 Authority of the Municipal Arborist.
- A. The Municipal Arborist shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.
- B. Supervision.
The Municipal Arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this Ordinance.
- C. Condition of Permit.
The Municipal Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.
- D. Master Street Tree Plan.
The Municipal Arborist shall have the authority to formulate a Master Street Tree Plan with the advice, a hearing, and approval of the City Council. The Master Street Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the municipality. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.
1. The Municipal Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the street and other public sites of the municipality.

2. Amend.

The Municipal Arborist, with the approval of the City Council shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.

1304.07

Permits Required.

A. Planting, Maintenance, or Removal.

1. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the Municipal Arborist or otherwise specified municipal authority. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Municipal Arborist.

2. Application for permits must be made at the office of the City Clerk not less than forty-eight (48) hours in advance of the time the work is to be done.

3. Standards of Issuance.

The Municipal Arborist shall issue the permit provided for herein if, in his judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

4. Notice of completion shall be given within five (5) days to the Municipal Arborist for his inspection.

B. Planting.

1. Application Data.

The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

2. Improper Planting.

Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Municipal Arborist to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

C. Maintenance.

1. Application Data.

The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

D. Removal, Replanting, and Replacement.

1. Wherever it is necessary to remove a tree or trees from a tree lawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. Provided that conditions prevent planting on tree lawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for the Arboricultural Specifications are planted in an attractive manner on the adjoining property

2. No person or property owner shall remove a tree from the tree lawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Municipal Arborist, and without replacing the removed tree or trees in accordance with the adopted Arboricultural Specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the Municipal Arborist. The person or property owner shall bear the cost of removal and replacement of all trees removed.

1304.08

Obstruction - Trees Pruned.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging

portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

- A. Notice to Prune.
Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Municipal Arborist shall order such person or persons, within three (3) days after receipt of written notice, to so prune trees.
- B. Order Required.
The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.
- C. Failure to Comply.
When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

1304.09 Abuse or Mutilation of Public Trees.
Unless specifically authorized by the Municipal Arborist, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising poster, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree.

1304.10 Interference with Municipal Arborist.
No person shall hinder, prevent, delay, or interfere with the Municipal Arborist or any of his assistants while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of 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 municipality.

1304.11 Protection of Trees.
All trees on any street or other publicly owned property near any excavation or construction of any building structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or a distance in feet from the tree equal to the diameter or the trunk in inches D.B.H., which ever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Municipal Arborist.

1304.12 Placing Materials on Public Property.

No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the Municipal Arborist.

1304.13 Creation of a City Tree Board.

There is hereby created and established in the City of Oak Park Heights a City Tree Board which shall consist of five (5) members composed of citizens and residents of the City of Oak Park Heights who shall be appointed by the Mayor with the advice and consent of the City Council.

A. Term of Office.

The term of the five (5) persons to be appointed by the Mayor shall be three (3) years, except that the term of two of the members appointed to the first board shall be for only two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed by the Mayor for the unexpired portion of the term.

B. Compensation.

Members of the Tree Board shall serve without compensation.

C. Purpose, Duties and Responsibilities.

It shall be the purpose and responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official Comprehensive City Tree Plan for the City of Oak Park Heights, Washington County, State of Minnesota. The Tree Board, when requested by the City Council, shall consider, investigate and make findings, reports and recommendations to the City Council upon any special matter of question coming within the scope of its work.

D. Operation.

The Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be quorum for the transaction of any business.

E. Interference with City Tree Board.

It shall be unlawful for any person to prevent, delay, or otherwise interfere with the City Tree Board or any of its agents while engaging in and about the City of Oak Park Heights for the purposes set forth herein.

F. Review by City Council.

The City Council shall review the conduct, acts, and decisions of the City Tree Board from time to time. No decision or recommendation from the City Tree Board shall be final unless approved by the City Council.

1304.14 Legality of Ordinance and Parts Thereof.

Should any section, clause, or provisions of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

1304.15 Violation and Penalty.

Any person, firm, or corporation violating or failing to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not more than Seven Hundred Dollars (\$700.00) or may be imprisoned for a term not exceeding ninety (90) days, or both.