

ORDINANCE NO. 80-829

AN ORDINANCE TO AMEND CHAPTER 38 TO ESTABLISH AN URBAN FORESTRY COMMITTEE AND PROVIDE STANDARDS FOR REMOVAL, PLANTING, AND PRESERVATION OF THE CITY'S URBAN FOREST AND AMEND CHAPTER 1 TO GIVE THE ZONING DEPARTMENT THE AUTHORITY TO ISSUE TICKETS FOR FAILING TO COMPLY WITH THE REQUIREMENTS OF CHAPTER 38.

THE CITY OF WARREN ORDAINS:

**SECTION 1.** That Chapter 1, Division 2, Section 1-9 of the Code of Ordinances of the City of Warren, Michigan,

**SHALL READ AS FOLLOWS:**

**Sec. 1-9. – Authorization.**

(c) *Issuance of appearance tickets.* The following city personnel are authorized to issue appearance tickets for an alleged violation of the ordinances listed:

(3) The Chief Zoning Inspector or a zoning inspector shall have authority to issue and serve upon a person an appearance ticket if he or she has reasonable cause to believe that the person has committed a violation of any of the following provisions of this Code:

- a. Mobile homes and trailers, Chapter 20.
- b. Zoning ordinance, Appendix A.
- c. Nuisances, Chapter 21.
- d. Medical marihuana, Chapter 19.5.
- e. Tree and Vegetation, Chapter 38.

**SECTION 2.** That Chapter 38, Article I of the Code of Ordinances of the City of Warren, Michigan,

**SHALL READ AS FOLLOWS:**

**DIVISION I. General Provisions.**

**Sec. 38-1. Short title.**

This ordinance is known and cited as the “tree and vegetation ordinance”.

**Sec. 38-2. Purpose.**

It is the purpose of this Chapter to promote the health, safety, and welfare of the citizens of the City by preserving, maintaining, enhancing, and increasing the urban tree canopy.

Additionally, this Chapter is meant to encourage citizens to plant *native plants*. Increasing the tree canopy and planting *native plants* will reduce erosion, flooding, extreme temperatures, surface and groundwater impairment, air, light and water pollution, urban heat islands, and the negative effects of climate change. Similarly, increased *native plants* and tree canopy will enhance property values, quality of life, and the character of residential neighborhoods, reduce vegetation-related maintenance, and encourage pollinator habitats. The Ordinance will implement the policies and goals listed in the City's Master Plan and Parks and Recreation Master Plan.

### **Sec. 38-3. Goals.**

The City will strive to continue to plant *native plants*, reduce mowed turf grass areas, increase the tree canopy by planting a variety of infrastructure safe tree species, protect the City's urban forest, diversify the City's *plants*, and educate and encourage property owners to do the same.

### **Sec. 38.4. Definitions.**

For the purposes of this Chapter, the following words have the meanings described below:

*Abutting Property Owner* is the owner of the real property directly abutting a *right-of-way* where the *public tree* is located.

*Low growth area* is an area that is made up of grass or other groundcover that is six (6) inches or less.

*Margin area* is the City-owned area between the lot line and the street. *Margin area* does not include the area between the lot line and the street under Federal, State, or Macomb County jurisdiction.

*Medium growth area* is an area that is made up of *plants* that do not exceed four (4) feet in height.

*Native plant* is a plant that: (1) is listed as a native plant in the Michigan State University Native Plants and Ecosystem Services' Southern Lower Peninsula Regional Plant List (RPL), as amended; or (2) has existed and evolved in Southeast Michigan over hundreds or thousands of years. A copy of the RPL is available in the clerk's office.

*Non-native plant* is a plant introduced with human help (intentionally or accidentally) to a new place or new type of habitat where it was not previously found.

*Opportunistic plant* is a plant that is: (1) listed as opportunistic by the RPL; or (2) is an invasive species. Invasive species include *non-native plants* that have no natural controls and are able to out-compete and gradually displace *native plants* or cause other economic or environmental harm.

*Planned natural landscaping area* is a deliberate and maintained area consisting of *native plants*. *Non-native plants* are discouraged. *Opportunistic plants* are prohibited.

*Plant* is any *tree*, shrub, herb, grass, fern, vine, or similar organism.

*Public Place* is City-owned property used for a public purpose, including but not limited to, a park, pool, playground, or public building grounds.

*Public Shrub* is a *shrub* located within a *right-of-way* or in a *public place*.

*Public Tree* is a *tree* located within a *right-of-way* or in a *public place*.

*Right-of-way* is a public street (including the sidewalk and *margin area*) or a public alley.

*Routine Maintenance* is pruning small limbs (less than one inch in diameter) from *trees* or *shrubs*.

*Shrub* is a low woody *plant* that is less than ten feet in height. Shrubs are typically bushy with multiple small trunks or branches that emerged from near the ground.

*Storm Damage* is damage to a tree caused by high winds, lightning, snow, ice, storms, or other extreme weather events.

*Street Tree* means trees, shrubs, bushes, and all other woody vegetation that are planted on the margin area of a property pursuant to the Adopt-the-Right-of-Way Program.

*Tree* is a woody perennial *plant* that can grow taller than ten feet and has a single, usually elongated, main stem with few or no branches on its lower part.

*ANSI A300 Standards* are the industry standards for tree care as developed by the Tree Care Industry Association.

**Sec. 38-5. American National Standard Institute (ANSI) Standards.**

- (a) The most recent version of the *ANSI A300 Standards*, as amended by this Section, are incorporated into this Chapter by reference. A copy of the Standards are available for review in the Clerk's Office.
- (b) Section 1.4 of the *ANSI A300 Standards* is amended to state, "The Urban Forestry Committee shall draft and administer tree specifications for the City".
- (c) Section 2.3.3 of the *ANSI A300 Standards* is amended to state, "Operations shall comply with applicable Michigan Occupational Safety and Health Administration (MIOSHA) standards, ANSI Z133.1, as well as state and local regulations".
- (d) A person performing work on a *public tree* shall comply with the *ANSI A300 Standards*, unless they have a written waiver from the Department of Public Service Director or designee.

**Sec. 38-6. Severability.**

If a court of competent jurisdiction holds any portion of this Chapter to be invalid for any reason, the remaining portions of the Chapter, not specifically held to be invalid, remain valid and enforceable.

**SECTION 3.** That Chapter 38, Article II of the Code of Ordinances of the City of Warren, Michigan,

**SHALL READ AS FOLLOWS:**

**DIVISION II. VEGETATION REGULATIONS, AND PUBLIC WAY AND PLACES**  
**REQUIREMENTS, Sections 38-3-38-18 are repealed and replaced as follows:**

**Article I. Urban Forestry Committee.**

**Sec. 38-7. Membership.** The Urban Forestry Committee is composed of five members. The Committee shall consist of the following people:

- (a) The Public Service Director or designee;
- (b) the City's Parks and Recreation Director or designee;
- (c) the Director of the Planning Department or designee;
- (d) the City Engineer or designee; and
- (e) the Department of Public Works Director or designee.

**Sec. 38-8. Meetings.** The Committee shall meet at least twice a year.

**Sec. 38-9. Powers and duties.**

- (a) The Committee shall develop, review, and amend the following standards and lists:
  - (1) Removal standards;
  - (2) A prohibited tree and shrub list;
  - (3) A preferred species and planting guidelines list;
  - (4) A tree planting locational standards list; and
  - (5) A list of best practices meant to preserve and increase the City's tree canopy.
- (b) At least every two years, the Committee shall review, and if necessary, update the removal standards, the prohibited tree and shrub list, and the preferred species, planting guidelines, and location standards list.
- (c) The Committee shall provide the Clerk's Office with the most recent version of the removal standards, prohibited tree and shrub list, and preferred species and planting guidelines, and location standards list for public inspection.
- (d) The Committee may develop materials and programing to educate the public about the benefits and preservation of the City's urban forest.
- (e) The Committee may develop a comprehensive urban forestry and *tree* plan that: assesses the current state of the City's urban forest (including conducting a *tree* inventory); identifies specific urban forest goals; and suggests the policies and strategies required to reach those goals.
- (f) The Committee may advise City departments and officials about ways to implement the goals listed in this Chapter.
- (g) The Committee may hire consultants to develop the list, standards, and urban forestry plan listed in this Section.
- (h) The Committee shall obtain City Council approval before expending money. Neither the Committee nor its members shall incur any expenses or create any obligation or liability upon behalf of the City.

**Article II. Tree removal and replacement.**

**Sec. 38-10. Standards for *public tree* removal.** The Urban Forestry Committee shall establish a written set of standards for determining if a *public tree* should be removed.

### **Sec. 38-11. Removal.**

- (a) A person shall not remove a *public tree* or *public shrub* without a permit issued by the Department of Public Service or its designated division or department.
- (b) Before the City removes a *public tree* or permits a utility company to remove a *public tree* under an annual permit, the Department of Public Service or its designated division or department shall conduct an in-person inspection of the tree and use the removal standards to determine if the *public tree* qualifies for removal.

**Sec. 38-12. Written Record.** The Department of Public Service or its designated division or department shall keep a written record of the reasons (corresponding to the removal standards) for removing or permitting removal of a *public tree*.

### **Sec. 38-13. Planting and replacement.**

- (a) A person shall not plant a *tree* or *shrub* on City-owned property unless they comply with subsection (d) of this Section.
- (b) A person, including the City and utility companies, shall replace any *public tree* they remove.
- (c) A person building a new residential structure shall plant a *public tree* in the *margin area* of the property where the new residential structure is located.
- (d) Newly planted and replacement *public trees* and *public shrubs* shall be:
  - (1) An appropriate species and size for the location according to the preferred species tree and planting guidelines list;
  - (2) Planted in compliance with the planting guidelines listed in the preferred species tree and planting guidelines list; and
  - (3) Planted in a location that is consistent with the planting location standards.

## **Article III. Public tree maintenance.**

### **Sec. 38-14. Maintenance to be performed by the City.**

Except as provided in Section 38-15, a person shall not perform maintenance on a *public tree*.

### **Sec. 38-15. Permissible private maintenance on a *public tree*.**

A person may perform the following maintenance on a *public tree*:

- (a) *Routine maintenance.*
- (b) If performed by a licensed contractor on behalf of an *abutting property owner*, or a utility company, maintenance to abate: (1) utility disruption, (2) *storm damage*, or (3) other hazardous condition that poses an immediate threat to the public health, safety, or welfare.
- (c) Work performed by a utility company that is covered by the annual vegetation management permit as described in Article V of this Chapter.

- (d) Work necessary to complete a public improvement project authorized by a government agency.
- (e) Work on a project that has all the necessary City approvals.

**Sec. 38-16. Notice to City of storm remediation work.**

Within two business days of performing work under Section 38-15(b), the contractor or utility company shall provide the Engineering Division written notice of the nature of the damage and the work performed. If the remediation work is inadequate, the City may require the contractor or utility company to perform additional work.

**Article IV. Utility Vegetation Management.**

**Sec. 38-17. Annual utility management permit required.** A utility company shall obtain an annual permit before removing, trimming, or otherwise altering a *public tree* or *public shrub*.

**Sec. 38-18. Annual utility management permit application and issuance.**

- (a) The utility company shall fill out an application on a form created by the Engineering Division. The application shall include all of the following information:
  - (1) The name, address, and telephone number of the utility company;
  - (2) The name and telephone number of the person filling out the application on behalf of the utility;
  - (3) The scope of the anticipated work with specific locations and a timeline for performance; and
  - (4) Any other relevant information required for the effective administration of this Chapter that the Engineering Division reasonably request.
- (b) Before issuing the permit, the City and the utility company may hold a review meeting to discuss the anticipated work.
- (c) Before the utility company performs any work at a particular work site, the utility company shall give the City written notice, at least seven days before the work is performed. The City may schedule a field meeting at the work-site before the utility company begins the work.
- (d) The utility company has a duty to ensure: (1) the work performed under the permit complies with all industry standards, including the *ANSI A300 Standards*; (2) it provides notice of remediation under Section 38-16; and (3) it complies with all Engineering Division's requirements.
- (e) The City may add requirements to the work being performed at any time to ensure compliance with the intent of this Chapter.

**Article V. Adopt a Right-of-Way Planting Program.**

**Sec. 38-19. Margin Area Landscaping.**

- (a) A person wanting to landscape a *margin area* that is not adjacent to their property shall apply for a permit from the Department of Public Service or its designated division or department.

- (1) The permit application shall include a landscape plan describing the design, types of plantings (chosen from the Urban Forestry Committee's preferred species, planting guidelines, and location standards list), sketch, and maintenance program for the selected *margin area*.
- (2) A landscape plan shall comply with: (1) all applicable laws, including the City's Zoning, property maintenance ordinances, and Chapter 34, Streets, Sidewalks, and Other Public Places; and (3) all standards and guidelines adopted by the Urban Forestry Committee.
- (3) If the *margin area* is not owned by the applicant, the applicant shall obtain written permission from the abutting property owner to landscape the area.
- (b) An applicant can appeal a permit denial to the Urban Forestry Committee by submitting a written appeal letter to the Department of Public Service within 14 days of the denial. To reverse the permit denial, the applicant must show that the City acted in an arbitrarily and capricious manner in denying the permit.
- (c) Continued maintenance of the landscaped area is the responsibility of the permit holder and the abutting property owner.
- (d) By resolution, City Council may establish application fees.
- (e) The City is not responsible for any damage to the landscaped *margin area* caused by either the City or a third-party, including replacing infrastructure and decorative fixtures.

## **Article VI. Prohibitions and Remediation.**

**Sec. 38-20. Prohibitions.** A person is prohibited from doing any of the following:

- (a) Attaching a sign, rope, chain, or similar item to a *public tree or public shrub*.
- (b) Planting a *tree, shrub, or other plant* that obscures the vision of a person driving a motor vehicle on a driveway approach, *right-of-way*, or otherwise using a *right-of-way*.
- (c) Allowing a *plant* to overhang a *right-of way* in such a way that that it blocks a person from using a *right-of-way*, blocks light to the *right-of-way* from a street lighting system, or otherwise causes a situation that places public safety at risk.
- (d) Impeding the free flow of water, fertilizer, or air to a *public tree's or public shrub's* root system.
- (e) Depositing or permitting another to deposit a toxic or harmful substance that may damage a *public tree or public shrub*.
- (f) Painting, coloring, or otherwise marking a *public tree or public shrub*, except with written permission from the Department of Public Service Director or designee.
- (g) During the course of construction, failing to take the necessary safeguards to prevent topsoil disturbance out to the dripline, and other damage (including root damage) to *public trees or public shrubs* in the area.
- (h) Driving nails into a tree or taking any other action that will injure or kill a *public tree or public shrub*,
- (i) If required by this Chapter, failing to apply for a permit.
- (j) Failing to remove a severely damaged, diseased, or dead *tree* located on the person's property.

**Cross-reference** – Warren Code of Ordinances, Zoning, Section 4.09 – Corner Visibility and Section 4.41 – Property Between Lot Line and Curb; Warren Code of Ordinances, Chapter 21, Section 21-47 - Duty to Remove Dead or Hazardous Tree in Public Right-of-Way; Warren Code of Ordinances, Chapter 22, Section 234 – Damaging Trees on School Property; and Warren Code of Ordinance, Chapter 23, Section 23-4 – Destruction of Trees in a Public Park.

**Sec. 38-21. Remediation.**

- (a) If a person violates a provision of this Chapter, the City may take all necessary actions to remedy the violation, including, but not limited to, removing a damaged *public tree* or *public shrub*, planting a *public tree* or *public shrub*, or performing maintenance on a *tree* or *shrub*.
- (b) Before remedying a violation as provided in subsection (a) above, the City shall provide the person responsible for the violation with written notice of the City's intent to remedy the violation. The City shall send the notice to the last known address of the property owner according to City records. The notice shall state the nature of the violation, a way to contact the City for further information, and ten days to remedy the violation.
- (c) The City may charge a responsible person any reasonable costs the City incurs from remedying the violation.
- (d) This Section does not obligate the City to remedy a violation or preclude the City from taking any other actions permitted by law, including but not limited to issuing tickets under the penalty section of this Chapter.

Cross-reference – Warren Code of Ordinance, Chapter 33, Section 33-61 – Special Assessment for Trees.

**SECTION 4.** That Chapter 38, Article III of the Code of Ordinances of the City of Warren, Michigan,

**SHALL READ AS FOLLOWS:**

**DIVISION III. PLANNED NATURAL LANDSCAPING AREA**

State law reference(s)—MCL 117.4q.

**Sec. 38-22. Purpose.**

The purpose of this Division is to encourage property owners to plant and maintain planned natural landscaping areas. Planned natural landscaping areas and planting native plants reduces greenhouse gasses and pollution, reduces water consumption, supports native songbirds, pollinators, insects, and species diversity, saves money on watering, reduces soil erosion, decreases the need for pesticides, naturally cools the city, filters contaminated storm water, and reduces the potential of sewer overflow and basement flooding.

**Sec. 38-23. Goals.**



The city will strive to plant native plants, greatly reduce mowed turf grass areas, increase tree canopy, water during the hours of darkness, and encourage property owners to do the same. The city will work toward creating a thirty (30) percent tree canopy over the city

**Sec. 38-24. Planned natural landscaping area requirements.**

- (a) Property owners may maintain a *planned natural landscaping area*, if the property owner complies with all of the following:
  - (1) Does not have a *planned natural landscaping area* in a right-of-way;
  - (2) Abides by applicable laws and ordinances not listed in section 38-22(c), including property maintenance ordinances prohibiting collection of junk or rubbish, rodent infestations, sanitation, grading and drainage, and rodent or other pest harborage; and zoning ordinances relating to corner visibility;
  - (3) Maintains a three-foot *low growth area* setback and a six-foot *medium growth area* buffer zone from the front lot line; and
  - (4) Regularly maintains the *planned natural landscaping area*.
- (b) Registration.
  - (1) The property owner may register the property with the Director of Public Service or designee.
  - (2) If the property owner sells the property, the registration is automatically transferred to the next owner.
  - (3) The registration application shall include the name of the person registering the property, the address and parcel number of the property to be registered, an affidavit swearing that the person registering the property owns the property.
- (c) *Planned natural landscaping areas* that comply with this section are exempt from the following vegetation-related property maintenance ordinances:
  - (1) The portions of Chapter 21 banning growth of weeds or grass higher than six inches; and
  - (2) International Property Maintenance Code Section 302.4 banning certain weeds and *plant* growth.

**SECTION 5.** That the Code of Ordinances of the City of Warren, Michigan, is hereby amended by adding a Division IV to Chapter 38,

**WHICH SHALL READ AS FOLLOWS:**

**DIVISION IV. Penalty.**

**Sec. 38-25. Penalty.** A violation of a provision of this Chapter is a municipal civil infraction punishable by a fine of up to five hundred dollars (\$500) per violation, cost not exceeding five hundred dollars (\$500), reimbursement to the City for reasonable costs for *tree* replacement, and other sanctions as provided by MCL 600.8727.

**SECTION 6.** This Ordinance shall take effect on February 17, 2025.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-829 was adopted by the Council of the City of Warren at its meeting held on January 28, 2025.

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SONJA BUFFA  
City Clerk

Published: February 12, 2025