

I. STATEMENT OF PURPOSE

- A. The City of Hamtramck recognizes public trees as an integral part of the City’s public infrastructure and as such should be preserved, protected and cared for as other critical City of Hamtramck infrastructure.
- B. The purpose of this chapter is to promote and protect the public health, safety, welfare, and quality of life of the City of Hamtramck by providing for the planting, preservation, protection, maintenance, and removal of trees, shrubs, and other plantings within the public right-of-way, on public property, and in other areas where trees may affect public safety, public infrastructure, or public improvements.
- C. This chapter establishes the City’s authority and responsibility for managing public trees, sets standards for tree planting and care, protects public trees from unnecessary damage or removal, provides for the removal of hazardous, dead, diseased, or nuisance trees, and recognizes that trees on private property may also affect the public health, safety, welfare, and/or infrastructure.

II. DEFINITIONS

- A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- B. APPLICANT. An owner of a lot, parcel or tract of land for which an application has been filed for a permit, subdivision, or any activity requiring the issuance of a permit. A contractor is an agent, acting on behalf of the Applicant – the landowner.
- C. CANOPY / CROWN. The upper portion of a tree usually containing branches and leaves.
- D. CALIPER. The diameter of a tree measured at six inches (6") above ground level. Caliper measurements are typically used to report the diameter of trees that are less than three inches (3") in diameter at 4.5 feet above ground level (see definition of Diameter at Breast Height (DBH)).
- E. CRITICAL ROOT ZONE. Soil area around a tree where the minimum number of roots critical to the stability and health of the tree are located, as determined by an ISA Certified Arborist or ASCA Consulting Arborist.
- F. CERTIFIED ARBORIST. An individual trained and experienced in, but not limited to, the care, assessment, maintenance, and planting of individual trees and certified by, and in good standing with, the International Society of Arboriculture.
- G. CONIFEROUS TREE. A tree mostly needle-leaved or scale-leaved, typically evergreen and/or cone-bearing such as pines, spruces, and firs.
- H. DAMAGE. Impact or loss of function to any tree including, but not limited to removal, root compaction, root removal, girdling / bark removal, soil contamination,

Commented [PM1]: State the reason / intent of the ordinance and the scope (land uses it applies to, types of trees, etc.).

Include a brief description of the ordinance, and why it is necessary and what public purposes it serves.

A clear delineation of what the ordinance component does and why, allowing the reader to understand its intent.

A rationale for your ordinance is helpful to ensuring it is defensible. Without reasonable justification your ordinance may be more likely to be challenged.

Conclusory statements about the benefits of trees may need support from extrinsic sources of information (e.g. research studies, statistical data) for courts to defer to legislative findings. The ordinance adopting your community’s tree regulations can recite that type of information in the preambles.

Commented [PM2R1]: https://mortonarb.org/plant-and-protect/chicago-region-trees-initiative/ordinance-builder-for-tree-protection/?utm_source=301_CRTI&utm_medium=direct#purpose

Commented [PM3]: Definitions
Define important legal and technical terms.

Component definition: Provides definitions of any legal or technical terminology used or referred to in the ordinance.

Importance: Having these definitions clarifies terms and makes your ordinance accessible to everyone who may be interacting with it, especially nonexperts (like residents). Where a word is defined by an ordinance, the word is interpreted only as directed by the ordinance and cannot be used as otherwise understood or defined.

Notes: Ensure all terms used match definitions in other sections of your code. Definitions should not include regulations. Often, ordinances put standards and other requirements into the definitions, which can make things clunky; for example: “A flower pot is a portable container for growing plants, and has a maximum soil volume of X and maximum height of Y.” In this example a definition attempts to use a standard (size) within the definition (flower pot). Distinguish external standards (disfavored) from characteristics that differentiate one classification from another (preferred).

Commented [PM4R3]: https://mortonarb.org/plant-and-protect/chicago-region-trees-initiative/ordinance-builder-for-tree-protection/?utm_source=301_CRTI&utm_medium=direct#definitions

topping, improper pruning, poisoning, and or/ actions resulting in the loss of viability, decline, or death of a tree.

I. DEPARTMENT OF PUBLIC SERVICES. The City department responsible for all matters relating to the construction, management, maintenance and operation of the physical properties of the city.

J. DEVELOPMENT. Any proposed change in the use or character of land, including, but not limited to, the replacement of any structure or site improvements. When appropriate to the context, development may refer to any conduct which requires the receipt of a building, or site work permit.

K. DIAMETER AT BREAST HEIGHT (DBH). The diameter of the trunk of the tree measured in caliper inches at a point 4.5 feet above soil grade. This point of measurement is used for trees with trunks greater than 3" in diameter and is referred to as DBH. All references to diameter size shall be to the DBH.

L. DRIP LINE. The ground directly beneath the tips of a tree's outermost branches.

M. EVERGREEN TREE. A tree that retains most of its leaves for most of the year.

N. HARDSCAPE. Any impervious surface material such as concrete, asphalt or bricks commonly used in the construction of streets, parking lots, sidewalks, and driveways.

O. HAZARD TREE. A tree which, as determined by the City, may cause damage or injury to a target such as a structure or person.

P. IMPACTED TREE. A tree which has been negatively affected by proximity to development, vehicle or equipment traffic, material storage, excavation or other damages as determined by the City.

Q. INVASIVE. Non-native species of tree, shrub or plant which reproduce rapidly and threaten to cause economic or environmental harm to native vegetation and/or human health.

R. INFESTED. Inhabited by insects or overrun in numbers or quantities large enough to be harmful.

S. MAINTENANCE. Any activity including, but not limited to, the pruning, spraying, injecting, bracing, irrigation, and soil improvement of a tree with the intention of preserving, improving, or maintaining tree condition.

T. MULTI-STEM TREE. A single tree made up of three or more main stems originating below the height used for measuring DBH.

U. NUISANCE. A tree, shrub or plant material which, as determined by the City, is dead, dying, diseased, infested, has undesirable characteristics, is no longer

viable, or poses an unacceptable risk to persons, property, or other beneficial trees. Also includes non-native invasive species and undesirable species of tree, shrubs, or vegetation, as determined by the City.

V. PARCEL. A lot of record, zoning lot or any grouping of adjacent lots under single ownership, serving a principal structure or use.

W. PRIVATE TREE. A tree that has its trunk, trunk flare, and buttress roots located entirely on private property.

X. PUBLIC PLACE. Any park, parking lot, parkway or other property under the control or jurisdiction of the Department of Public Services and the city.

Y. PUBLIC RIGHT-OF-WAY. All of the land lying between property lines on either side of all public streets, boulevards and alleys.

Z. PUBLIC TREE. Any tree that has its trunk, trunk flare, and buttress roots located within a public right-of-way, public place, public land, or property owned or controlled by the City, regardless of who planted it.

AA. ROOT / TRUNK COLLAR / FLARE. The part of a tree or shrub, usually at or near ground level, where root and trunk tissue interface.

BB. TARGET. A person, structure, vehicle, activity, or similar that could be injured, damaged, disrupted, or otherwise affected by tree or tree-part failure.

CC. TREES. As used in this chapter, any woody plant that matures larger than 20' in height. Shall not be construed to include shrubs which do not grow higher than 20 feet.

DD. TREE FUND. A bank account established to receive and hold deposits for trees which were damaged and/or removed. These funds may be used for arboricultural and forestry programming throughout the City of Hamtramck.

EE. TREE REMOVAL. The dismantling, cutting down, destruction, removal or relocation of any tree.

FF. UNACCPETABLE RISK. A degree of tree risk, as determined by the Department of Public Services, that warrants intervention.

GG. SHRUBS. Any woody perennial plant material that at maturity is less than 20 feet in height.

HH. STREET TREE. Any tree located on or within the public right-of-way easement.

II. VIABLE. A tree, which in the judgment of the City is capable of sustaining its own life processes for a reasonable period of time.

III. APPLICABILITY AND SCOPE

Commented [PM5]: Applicability / Scope of Ordinance
Clarify who and what is covered under your ordinance.

Component definition: Defines the type of property to which the ordinance applies and may include categories, e.g., parcel size.

Importance: Depending on the extent of the scope defined in the ordinance, this statement will clarify what properties must comply with the various sections of the ordinance.

Notes: This may also include a limitation to the ordinance based on parcel size, e.g., ordinance applies to private property only if it is above 1 acre. This is tied closely to the purpose statement and may be combined with it. In some municipalities, right-of-way/street trees are the responsibility of adjacent property owners, even though they are on public land. We recommend against this practice due to past legal proceedings, and to ensure appropriate specifications are followed in line with management plan or ordinance. In past legal proceedings, the liability of trees on public land, and on the border of public lands, has been confirmed to be that of the landowner, i.e. the governmental entity. In many communities, minimal tree care from adjacent property owners might be requested, primarily watering.

Commented [PM6R5]: https://mortonarb.org/plant-and-protect/chicago-region-trees-initiative/ordinance-builder-for-tree-protection/?utm_source=301_CRTI&utm_medium=direct#applicability-scope-of-ordinance

- A. This chapter applies to all trees, shrubs, and other vegetation located within the public right-of-way, public places, and property owned, controlled, or maintained by the City.
- B. This chapter also applies to any planting, pruning, removal, excavation, construction, or other activity that may damage, disturb, or affect a public tree, shrub, or vegetation.
- C. Trees, shrubs, and other vegetation on private property are subject to this chapter only when specifically authorized by this chapter, including when they overhang or obstruct the public right-of-way, interfere with streetlights, traffic-control devices, signs, sidewalks, streets, utilities, or public infrastructure, create a verified hazard to public safety, or may contribute to the spread of disease, insects, or other pests to public trees or public places.
- D. Nothing in this chapter shall be construed to make an abutting property owner responsible for the ownership, management, or removal of public trees, except where responsibilities are specifically assigned by permit, agreement, approval, violation, or other provision of this chapter.

IV. PERMITS AND APPROVALS

- A. **PERMIT OR APPROVAL REQUIRED.** No person, firm, corporation, contractor, utility, or other entity shall plant, prune, remove, damage, disturb, excavate near, construct near, or otherwise perform work affecting a public tree, shrub, vegetation, or planting without first obtaining any permit or approval required by this chapter.
- B. **APPLICATION.** The Department of Public Services may require an applicant to submit information necessary to review the proposed work, including the location, species, size, condition, proposed activity, work methods, contractor information, tree protection measures, replacement or mitigation plan, and any other information reasonably required by the Department.
- C. **REVIEW AND CONDITIONS.** The Department of Public Services may approve, deny, or condition a permit or approval based on this chapter, City standards, site conditions, public safety, public infrastructure, tree health, and the protection of public trees.
- D. **COMPLIANCE REQUIRED.** Work performed under a permit or approval shall comply with all permit conditions, City standards, and applicable rules, regulations, specifications, or policies adopted or approved by the Department of Public Services.
- E. **INSPECTION.** The Department of Public Services may inspect work performed under a permit or approval before, during, or after the work is completed.
- F. **SUSPENSION OR REVOCATION.** The Department of Public Services may suspend or revoke a permit or approval if work is performed in violation of this chapter, permit conditions, City standards, or applicable law.
- G. **EMERGENCY WORK.** Nothing in this section shall prevent emergency action necessary to address an immediate threat to public safety or property. Emergency work shall be reported to the Department of Public Services as soon as practicable,

and the Department may require documentation, inspection, corrective action, replacement, mitigation, or payment of tree value.

H. UTILITIES AND CITY CONTRACTORS. Public utilities and City contractors shall comply with this chapter and any applicable tree protection, notice, coordination, restoration, replacement, or mitigation requirements established by the Department of Public Services, even where the Department determines that a separate permit is not required.

V. ESTABLISHMENT OF A TREE COMMISSION

A. ESTABLISHMENT. There is hereby established a function of the Beautification Commission to serve as an advisory and recommending body on matters related to the planning, planting, preservation, maintenance, management, and protection of trees within the City.

B. PURPOSE. The Beautification Commission may provide guidance and recommendations to the City Council, Department of Public Services, and other City departments regarding public trees, arboriculture and forestry planning, tree policies, community education, and implementation of a forestry plan or related City policies.

C. POWERS AND DUTIES. The Beautification Commission may:

1. provide recommendations on the preservation, planting, care, maintenance, removal, and protection of trees;
2. review and recommend updates to a forestry plan, tree manual, or related City policies;
3. support public education and outreach related to tree planting and care;
4. review arboriculture and forestry policies, plans, or programs referred to it by City Council or the Department of Public Services;
5. provide recommendations regarding appeals or disputes when requested or authorized by this chapter; and
6. perform other advisory duties assigned by City Council.

VI. MUNICIPAL AUTHORITY AND ADMINISTRATION

A. AUTHORITY. The Department of Public Services shall be responsible for administering and enforcing this chapter. The Department of Public Services, acting through its Director or authorized designee, shall have authority over all public trees, shrubs, and vegetation located within the public right-of-way, public places, and property owned, controlled, or maintained by the City.

B. POWERS AND DUTIES. The Department of Public Services, acting through its Director or authorized designee, shall have the authority to plant, prune, trim, spray, preserve, maintain, inspect, protect, and remove public trees, shrubs, and vegetation as necessary to preserve, improve, or protect public health, safety, welfare, infrastructure, and quality of life.

Commented [PM7]: Recommending creating a board.

Commented [PM8]: Delegation of Authority
Establish your decision makers for trees.

Component definition: Identifies individuals or groups responsible for making decisions about trees.

Importance: Establishing who is responsible for trees in your governmental entity allows for accountability and transparency in managing this important resource. Identifying authority over trees in your governmental entity is a requirement of the Tree City USA program.

Notes: Authority may be focused on the internal tree manager, but if contracted urban forest management (planning, maintenance, planting, etc.) is expected, the skill requirements for those contractors should be specified (e.g., must have certified arborist on-site, inventories must be conducted by arborists with ISA Tree Risk Assessment Qualification, etc.).

Commented [PM9R8]: https://mortonarb.org/plant-and-protect/chicago-region-trees-initiative/ordinance-builder-for-tree-protection/?utm_source=301_CRTI&utm_medium=direct#delegation-of-authority

C. RISK MANAGEMENT, DISEASE, AND PEST CONTROL. The Department of Public Services, acting through its Director or authorized designee, may remove or cause to be removed any public tree, shrub, planting, or part thereof that is dead, diseased, in an unsafe condition, affected by an injurious fungus, insect, or other pest, or otherwise determined to present an unacceptable risk to public safety or public infrastructure.

D. PERMITS AND CONDITIONS. The Department of Public Services, acting through its Director or authorized designee, shall have authority to review, approve, deny, condition, suspend, or revoke permits or approvals required under this chapter. The Department may inspect work performed under any permit or approval and may require corrective action when work does not comply with this chapter or with rules, regulations, standards, or specifications adopted by the City.

E. RULES AND STANDARDS. The Department of Public Services may make, publish, and enforce rules, regulations, standards, and specifications for the planting, pruning, protection, maintenance, removal, and replacement of public trees, shrubs, and vegetation, provided such rules are not inconsistent with this chapter.

F. CONTRACTORS AND QUALIFIED PROFESSIONALS. Forestry and arboricultural services performed for the City, or under City authorization, may be performed by City staff, contractors, consultants, or other qualified professionals approved by the Department of Public Services. The Department may require that certain work, including, but not limited to, forestry planning, tree risk assessment, tree inventory, pruning, removal, planting, tree protection planning, be performed or supervised by a Certified Arborist, or other professional meeting qualifications established by the Department.

G. INTERFERENCE. No person shall hinder, prevent, delay, or interfere with the Department of Public Services, its employees, agents, contractors, consultants, or authorized representatives while engaged in the administration, execution, or enforcement of this chapter.

VII. PUBLIC TREE PLANTING

A. While allowing for reasonable use and improvement of land within the City, it is the policy of the City to increase the public tree population where appropriate and to maintain existing beneficial trees to the greatest extent feasible. The objectives of planting, maintaining, removing and replacing public and private trees are to:

1. preserve and enhance the City's character,
2. reduce heat and stormwater runoff,
3. buffer wind and noise,
4. reduce energy consumption through shade and wind break,
5. enhance property values,

Commented [PM10]: Tree Planting and Maintenance Standards
Ensure high quality planting and maintenance through standards.

Component definition: Sets standards for planting, maintenance, and removal of trees.

Importance: Planting and maintaining trees with high professional standards is important. This component can be used to stipulate e.g., contractual work related to trees.

Notes: By using an urban forest management plan as a support to the governmental entity's ordinance, there is more flexibility when making changes or updating practices and specifications. Rather than an ordinance change, when a standard is updated, a governmental entity need only update their urban forest management plan or other tree care policy. Note: An administrative board cannot completely amend the regulations – that is exercising legislative authority. A delegation of power to an administrative board must provide sufficient parameters for the board to “fill in the blanks,” rather than creating the basic parameters themselves.

Commented [PM11R10]: https://mortonarb.org/plant-and-protect/chicago-region-trees-initiative/ordinance-builder-for-tree-protection/?utm_source=301_CRTI&utm_medium=direct#tree-planting-and-maintenance-standards

6. and support a healthy, safe, and sustainable community.

B. PERMIT OR APPROVAL REQUIRED. No person, firm, or corporation shall plant any tree, shrub, or other vegetation in the public right-of-way, public place, or property owned, controlled, or maintained by the City without first obtaining written permission or approval from the Department of Public Services.

C. PERMIT APPLICATION. An application for planting approval shall identify the proposed planting location, species, caliper or DBH measurement, nursery stock source, nursery stock packaging or container type, excavation method, and any other information requested by the Department of Public Services.

D. CONDITIONS OF APPROVAL. Any approval issued by the Department of Public Services shall state the extent of the authorization and any conditions required by the City. All planting shall comply with this chapter and with any rules, regulations, standards, or specifications established by the Department of Public Services.

E. PLANTING STANDARDS. All public tree planting shall comply with this chapter and with Department standards and policies governing planting, species selection, clearance, nursery stock, and establishment adopted or approved by the Department of Public Services. The Department may maintain approved and prohibited species lists, clearance and setback standards, and technical specifications in an adopted forestry plan, program manual, or other administrative policy document.

VIII. PUBLIC TREE MAINTENANCE

A. MAINTENANCE STANDARDS. Forestry and arboricultural services performed for the City, or under City authorization, shall comply with this chapter and with rules, regulations, standards, specifications, forestry plan, or program manual adopted or approved by the Department of Public Services, ANSI A300 standards, and International Society of Arboriculture best practices.

B. CLEARANCE AND VISIBILITY. Trees, shrubs, and vegetation shall be maintained so they do not obstruct traffic-control devices or required right-of-way clearance. The Department of Public Services may require or perform tree pruning where such obstruction affects public safety, visibility, or access.

C. TREE ESTABLISHMENT AND HEALTH CARE. The Department of Public Services may establish maintenance programs for public trees, including watering, mulching, pruning, pest and disease management, inspection, and other care needed to manage tree establishment and to maintain tree health.

D. TREE SUPPORT DEVICES. No person shall remove, injure, alter, or obstruct any tree guard, support, protection device, mulch dressing, or other treatment or device provided to protect a public tree.

E. PROTECTION OF THE SOIL INTERFACE. No person shall close or obstruct the area adjacent to the base of a public tree or shrub which permits the access of air, water, nutrients, or chemical treatment to the roots.

IX. PUBLIC TREE REMOVAL

A. Public trees are recognized as critical City infrastructure. Where feasible, preservation and protection of beneficial public trees shall be preferred before removal and replacement.

B. APPROVAL REQUIRED. No person, firm, or corporation shall remove, cause the removal of, or substantially damage any public tree, shrub, or vegetation without prior review and approval from the Department of Public Services, except as otherwise authorized by this chapter.

C. CITY AUTHORITY TO REMOVE. The Department of Public Services may remove or cause to be removed any public tree, shrub, vegetation, or part thereof when removal is necessary to protect public health, safety, welfare, public infrastructure, or the condition of adjacent beneficial trees or vegetation.

D. CRITERIA FOR REMOVAL. A public tree, shrub, or vegetation may be removed when the Department of Public Services determines that one or more of the following applies:

1. the tree, shrub, or vegetation is dead, diseased, dying, or in irreversible decline;
2. the tree, shrub, or vegetation presents an unacceptable risk to public safety;
3. the tree, shrub, or vegetation is affected by an injurious fungus, insect, disease, or other pest;
4. the tree, shrub, or vegetation is causing unacceptable damage to public infrastructure;
5. removal is necessary for a public improvement project, and no reasonable design alternative exists;
6. the tree, shrub, or vegetation is detrimental to adjacent beneficial public trees or vegetation or
7. removal is otherwise authorized by the Department of Public Services under this chapter.

E. PROPERTY OWNER REQUESTS. Where an owner of property abutting a public right-of-way or public place requests removal of a public tree, the Department of Public Services may approve, deny, or condition the request. As a

condition of approval, the Department may require the property owner to assume all or part of the cost of removal, replacement, mitigation, or payment of tree value.

F. EMERGENCY REMOVAL. In an emergency involving an immediate threat to public safety or property, the Department of Public Services may authorize removal without a typical review process. If a public tree is removed before written approval can be obtained, the person removing the tree shall document the condition with photographs where feasible and notify the Department of Public Services as soon as practicable.

G. BURIED UTILITY IDENTIFICATION. Stump removal, grinding, or other below-grade work associated with tree removal shall comply with applicable utility location requirements before work begins.

H. REPLACEMENT AND MITIGATION. A public tree removed, substantially damaged, or removed without authorization may be subject to replacement, mitigation, payment of tree value, or fee in lieu of planting, or other compensation to the City as provided in this chapter and any standards, specifications, fee schedules, or policies adopted by the City.

I. INVASIVE WOODY VEGETATION. The Department of Public Services may approve the removal or management of invasive or prohibited woody plants on public property in accordance with City standards without replacement or mitigation requirements.

X. REQUIREMENTS OF PROFESSIONALS

A. APPLICABILITY. This section applies to tree planting, pruning, maintenance, removal, inspection, inventory, risk assessment, construction-related tree protection, and other arboricultural or forestry work performed on behalf of the City by external contractors, consultants, or other non-City personnel.

B. MINIMUM QUALIFICATIONS. The Department of Public Services may require contractors, consultants, or other persons performing arboricultural or forestry services to have appropriate training, experience, certifications, licenses, insurance, and equipment for the work being performed.

C. CERTIFIED ARBORIST SUPERVISION. The Department of Public Services may require certain arboricultural or forestry services to be performed under the direction or supervision of an ISA Certified Arborist, consulting arborist, or other professional approved by the Department.

D. COMPLIANCE WITH CITY STANDARDS. All contracted arboricultural or forestry services shall comply with this chapter, permit conditions, City standards and specifications, applicable safety requirements, and any other contract requirements established by the City.

E. INSURANCE AND LEGAL REQUIREMENTS. Contractors performing arboricultural or forestry services shall meet applicable City insurance, workers' compensation, licensing, bonding, procurement, and prevailing wage requirements.

XI. TREE PROTECTION, MITIGATION, AND REPLACEMENT

A. APPLICABILITY. This section applies to any construction, excavation, site improvement, building movement, material delivery, utility work, public improvement, removal, pruning, or other activity that may damage, disturb, remove, or affect a public tree, shrub, vegetation, or its critical root zone.

B. PREFERENCE FOR PRESERVATION. Where feasible, preservation and protection of existing beneficial public trees shall be preferred before removal, replacement, or mitigation.

C. APPROVAL BEFORE WORK. When proposed work is in the vicinity of a public tree, shrub, vegetation, or critical root zone, the Department of Public Services may require prior approval, a tree protection plan, replacement plan, mitigation plan, or other conditions before work begins.

D. EXEMPTIONS. Public utilities and City contractors may be exempt from obtaining a separate permit where work is otherwise authorized by the City or required by law; however, they shall comply with appropriate tree protection, restoration, and replacement requirements under this chapter.

E. REQUIRED PROTECTION. Public trees and their critical root zones shall not be disturbed unless authorized by the Department of Public Services. No person, firm, corporation, contractor, utility, or City contractor shall remove, injure, damage, disturb, or create a hazard to a public tree unless authorized by the Department of Public Services.

F. TREE PROTECTION MEASURES. Required protection measures may include signage, fencing, limits on equipment access, material storage restrictions, soil protection, trunk or canopy protection, pruning requirements, supplemental irrigation, or other measures approved by the Department of Public Services. Specific technical requirements may be maintained in City standards, specifications, a forestry plan, program manual, or other administrative policy document.

G. TIMING. Required tree protection measures shall be installed before work begins or materials are delivered and shall remain in place until final site grading is complete or the Department of Public Services authorizes their removal.

H. PROHIBITED ACTIVITIES. Unless approved by the Department of Public Services, no person shall store materials, park or operate equipment, excavate, trench, change grade, compact soil, attach objects, place harmful materials,

damage roots, damage bark, or otherwise disturb a public tree or its critical root zone.

I. **DAMAGE, REMOVAL, OR NONCOMPLIANCE.** Any person responsible for causing the death, damage, removal, decline, or required removal of a public tree, or for failing to follow required tree protection measures, may be subject to corrective action, restoration, replacement, mitigation, cost recovery, payment of tree value, replacement planting, fee in lieu of planting, fees, penalties, or other remedies authorized by this chapter.

J. **REPLACEMENT REQUIREMENT.** A public tree that is removed, substantially damaged, damaged beyond reasonable preservation, or removed without authorization may be subject to replacement, mitigation, payment of tree value, fee in lieu of planting, or other compensation to the City.

K. **REPLACEMENT LOCATION.** Replacement trees shall be planted on-site where feasible. If on-site planting is not feasible or appropriate, the Department of Public Services may approve planting at another location within the City or may require payment into the Tree Fund or another approved account used for tree planting, establishment, maintenance, or related arboriculture and forestry purposes.

L. **PROPORTIONAL MITIGATION.** Replacement, mitigation, or payment requirements shall be related to the size, condition, location, tree value, public benefit, and circumstances of the removed or damaged tree, consistent with standards, specifications, fee schedules, or policies adopted or approved by the City.

M. **REPLACEMENT STANDARDS.** Replacement trees shall comply with City planting standards, specifications, species guidance, and any applicable maintenance or establishment requirements adopted or approved by the Department of Public Services.

XII. FEES, DEPOSITS, AND COST RECOVERY

A. **FEES.** The City may establish fees for permits, inspections, reviews, tree protection, tree removal, replacement, mitigation, and other activities authorized under this chapter. Such fees may be established by City Council resolution, fee schedule, City policy, or other lawful method.

B. **DEPOSITS.** The Department of Public Services may require a deposit before work begins when proposed activity may damage, disturb, remove, or affect a public tree, shrub, vegetation, or public planting area. Deposits may be used to cover inspection, restoration, replacement, mitigation, or damage resulting from the permitted or approved activity.

C. COST RECOVERY. Any person, firm, corporation, contractor, utility, property owner, or other entity responsible for damaging, removing, disturbing, or failing to protect a public tree may be required to reimburse the City for costs incurred, including inspection, corrective action, restoration, replacement, mitigation, administrative costs, and payment of tree value.

D. PAYMENT OF TREE VALUE. Where a public tree is removed, substantially damaged, or damaged beyond reasonable preservation, the Department of Public Services may require payment of tree value as provided in this chapter and in any standards, specifications, fee schedules, or policies adopted or approved by the City.

E. USE OF FUNDS. Fees, deposits, mitigation payments, tree value payments, penalties, and other funds collected under this chapter may be deposited into the Tree Fund or another account designated by the City for tree planting, establishment, maintenance, replacement, protection, inventory, education, or related arboriculture and forestry purposes.

F. NO LIMITATION ON PENALTIES. Payment of fees, deposits, costs, or tree value shall not limit the City's ability to pursue enforcement, penalties, corrective action, or other remedies authorized by this chapter or applicable law.

XIII. TREE FUND

A. ESTABLISHMENT. The City may establish a Tree Fund to support the planting, preservation, protection, maintenance, replacement, and management of trees within the City.

B. DEPOSITS. The Tree Fund may receive payments from tree replacement fees, mitigation payments, permit fees, penalties, donations, grants, forfeited deposits, or other funds designated for arboriculture and forestry purposes.

C. USE OF FUNDS. Money in the Tree Fund shall be used only for arboriculture and forestry purposes, including, but not limited to, forestry programming, public tree planting, establishment care, maintenance, tree inventory, tree protection, public education, and development and implementation of arboriculture and forestry data gathering and planning.

D. ADMINISTRATION. The Tree Fund shall be administered by the City or its designated department in accordance with City financial procedures.

E. NO LIMITATION ON OTHER FUNDING. The Tree Fund shall not prevent the City from using general funds or other available funds for tree planting, maintenance, removal, replacement, or any other arboricultural or forestry work.

XIV. ENFORCEMENT, PENALTIES, AND APPEAL

Commented [PM12]: Alternatively, it can be managed by the Community Foundation for Southeast Michigan which would do all the administrative work and compliance while keeping funds out of reach for non-forestry functions.

A. ENFORCEMENT AUTHORITY. The Department of Public Services, acting through its Director or authorized designee, shall have authority to enforce this chapter and any rules, regulations, standards, specifications, permits, approvals, or conditions issued under this chapter.

B. VIOLATIONS: It shall be a violation of this chapter for any person, firm, corporation, contractor, utility, or other entity to remove, damage, prune, plant, disturb, obstruct, or otherwise affect a public tree, shrub, vegetation, or required tree protection measure without required approval or in violation of this chapter, permit conditions, or City standards.

C. CORRECTIVE ACTION. In addition to any fine or penalty, the Department of Public Services may require corrective action, restoration, replacement planting, mitigation, payment of tree value, payment into the Tree Fund, reimbursement of City costs, or other remedies authorized by this chapter.

D. CITY ACTION AND COST RECOVERY. If a violation creates a hazard, an unacceptable level of risk, damages public property, or is not corrected within the time required by the City, the City may perform or cause the necessary work to be performed. The responsible person or property owner may be charged the cost of such work. Unpaid costs may be collected as authorized by law, including as a lien where permitted.

E. PENALTY. Any person, firm, corporation, contractor, utility, or other entity found responsible for violating this chapter may be subject to a fine not to exceed \$1,000 or other penalty authorized by law. Each violation may be treated as a separate offense.

F. APPEALS. Any person aggrieved by a final decision, permit denial, condition, order, fee, mitigation requirement, or enforcement action issued under this chapter may appeal in the manner established by the City. The City may refer appeals to the Tree Commission, if established, for review and recommendation before final action by the City Council or other designated authority.

XV. SEVERABILITY

A. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

XVI. EFFECTIVE DATE