

Chapter 57 - VEGETATION^[1]

Footnotes:

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Cross reference— Buildings and building regulations, Ch. 9; streets, sidewalks and other public places, Ch. 50; subdivision of land, Ch. 51.

ARTICLE II. - TREES AND SHRUBS ALONG STREETS^[2]

Footnotes:

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Cross reference— Streets, sidewalks and other public places, Ch. 50.

Sec. 57-2-1. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Place shall include any park, parkway, park lot, grass plot, golf course, playground, recreation area, open place or square or other property under the control of the recreation department.

Public highways shall mean all of the land lying between the property lines on either side of the public streets, boulevards and alleys of the city.

Trees shall not be construed to include shrubs which do not grow higher than fifteen (15) feet.

(Code 1964, § 64-1-1)

Cross reference— Definitions and rules of construction generally, § 1-1-2.

Sec. 57-2-2. - Powers and duties generally of recreation department.

The recreation department shall have power and control over all trees, shrubs and plants planted or to be planted on the public highways or places of the city, and the power to plant, prune, spray, remove and otherwise maintain such trees, shrubs and plants within the city.

(Code 1964, § 64-1-2)

Sec. 57-2-3. - Injury, etc., to shade and ornamental trees.

No person shall destroy, cut, injure or in any way deface any shade or ornamental tree standing in any street, avenue, public space or square in the city. This section shall not be construed to prohibit any person owning or occupying any lot in front of or adjacent to which there may be any shade or ornamental trees from trimming the same.

(Code 1964, § 64-1-3)

State Law reference— Destruction of trees, MCL 247.235, 247.241, 318.251; MSA 9.355, 9.361, 13.1064(1).

Sec. 57-2-4. - Permit required to trim, spray, etc., trees; exception.

No person shall prune, cut, molest, break, deface, destroy, spray, repair or do surgery work upon any tree or part thereof or in any manner interfere with, disturb or injure any tree, shrub or plant upon the public highways or places of the city; nor shall any chemical be used for the control of insects or other diseases or for any other reason; nor shall any person permit any chemical, either solids or fluids, to seep, drain or be emptied on or about any tree, shrub or plant growing upon any public highway or place within the city, without first obtaining a permit from the recreation department. Nothing in this section shall be construed so as to apply to the removal, under the direction of the recreation department, by the environmental protection and maintenance or any other department or subdivision thereof, of any tree, shrub or plant thereof, when such removal shall be necessary for the construction of any sidewalk, sewer, water main, conduit, or public improvement, after notifying the recreation department as to the extent of the project proposed.

(Code 1964, § 64-1-4)

Sec. 57-2-5. - Hitching animals, anchoring wires, posting of signs, etc., prohibited.

No person shall hitch any animal to any tree or shrub, or fasten to any tree or shrub, for the purpose of anchorage, any wire, rope, chain or cables, nor shall any person nail, tie or in any other manner, fasten any cards, signs, posters, boards or any other article to any tree, shrub or plant growing upon any public highway or public place within the city.

(Code 1964, § 64-1-5)

Cross reference— Animals and fowl generally, Ch. 6.

State Law reference— Attaching articles to trees, MCL 247.241, MSA 9.361.

Sec. 57-2-6. - Excavations near trees; deposit to cover damage caused by excavations.

No person shall excavate any ditches, tunnels or trenches or lay any drive within a radius of ten (10) feet from any tree, shrub or plant growing upon any public highway or place within the city without first obtaining a written permit from the recreation department. All persons desiring to excavate any ditches, tunnels, trenches or lay drives shall deposit a sum sufficient to cover the cost of inspection and damage that may result therefrom.

(Code 1964, § 64-1-6)

Cross reference— Excavations generally, § 50-3-1.

Sec. 57-2-7. - Protection of trees and shrubs during excavation or building operations.

All trees, shrubs or plants within the limits of any street, boulevard, highway or public place near any excavation or construction of any building or structure shall be guarded with a good, substantial frame box, not less than four (4) feet square and six (6) feet high. All building material or other debris shall be kept at least four (4) feet from any tree, shrub or plant.

(Code 1964, § 64-1-7)

Cross reference— Excavations generally, § 50-3-1 et seq.

Sec. 57-2-8. - Trimming of branches overhanging streets.

Every owner of any tree, shrub or plant overhanging the streets or highways within the city shall trim the branches so that they shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of ten (10) feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, broken or decayed limbs which may be considered a menace to the safety of the public.

(Code 1964, § 64-1-8)

Sec. 57-2-9. - Maximum height of shrubs on corners.

- (a) All bushes, shrubs or plants, located on any corner lot within the city, that obstruct the view of a driver of a vehicle approaching a street intersection shall not be permitted to grow to a height of more than three (3) feet above the surface of the roadway.
- (b) It shall be the duty of the recreation department, in all cases of any violation of this section, to order the owner of such bush, shrub or plant to cut the same within ten (10) days to the height specified.
- (c) In case the owner of any such bush, shrub or vine shall fail to cut the same to the height specified within ten (10) days after being notified to do so, the recreation department shall report such failure to the city council, who may then order such bush, shrub or vine to be cut to the height herein specified, and the cost of such work shall be levied against the owner of such bush, shrub or vine and shall be collected by special assessment.

(Code 1964, § 64-1-9)

Sec. 57-2-10. - Permit to move buildings.

Every person, whether licensed or otherwise, moving any building or other structure of wood, metal, stone or concrete, measuring over eight (8) feet six (6) inches wide, and twelve (12) feet high, measuring from the surface of the roadway, along any street or highway or across any public place within the city, shall file a written notice with the recreation department of the date of their intention to do so, stating the time, the place and to which the building or structure will be moved and the route proposed to be taken in such moving. Such person shall not in any manner damage any trees or shrubs planted on any street or highway, and shall deposit a sum sufficient to cover the cost of inspection and damage that may result therefrom. The recreation department shall have the authority to refuse the issuance of a permit or change the route of such moving if, in its opinion, such moving will cause damage to any property.

(Code 1964, § 64-1-10)

Cross reference— Moving of structures generally, § 9-13-1 et seq.

Sec. 57-2-11. - Leaks in gas mains.

No person owning, maintaining or operating any gas pipes or mains laid beneath the surface of any street, alley or public place of the city shall permit any leak to occur within a radius of forty (40) feet from any tree, shrub or plant growing in any street or public place in the city. If a leak exists or occurs in such pipe or main, it shall be the duty of the person owning or operating such defective pipe or main to repair the same immediately and stop such leak in a manner as to prevent a recurrence thereof. If such person shall fail within three (3) days after receipt of written notice from the recreation department to stop such leak in such manner as to prevent a recurrence thereof, such person shall be subject to the penalties provided by section 1-1-9.

(Code 1964, § 64-1-11)

Sec. 57-2-12. - Action by city council relative to planting of trees and shrubbery along streets.

Tree and shrubbery planting shall be done throughout the city either upon resolution of the city council on petition of parties owning a majority of the lineal footage of the property fronting on the line of such street or by order of the city council upon recommendation of the recreation department.

(Code 1964, § 64-1-12)

State Law reference— Authority for appropriations for planting, pruning and protecting shade and ornamental trees, MCL 247.232, MSA 9.352.

Sec. 57-2-13. - Planting or removal of trees and shrubs—Declaration of necessity by city council.

Whenever it is deemed necessary by the recreation department to lay out and plant trees and shrubs upon any public highway within the city or to remove undesirable species of trees, it shall be the duty of the recreation department to report such fact to the city council, which body shall, by resolution, declare that a necessity exists for planting or for the removal of undesirable species of trees, specifying in such resolution the particular location upon which it is proposed to lay out or plant or remove such trees and shrubs and designate the estimated cost thereof.

(Code 1964, § 64-1-13)

Sec. 57-2-14. - Same—Notice of hearing.

The resolution provided for in section 57-2-13 shall fix a time and place when the city council will hear any person desiring to object to such improvement. The city council shall cause a notice to be published in the official daily paper, printed in the English language, for at least five (5) days prior to the time fixed for hearing such matter. There shall be five (5) publications, and such notice shall state that it is proposed to levy an assessment upon the lands abutting the public highways within the city upon which it proposes to make such improvements to cover the cost thereof. It shall be the duty of the recreation department to notify property owners interested of the proposed improvement by letter, addressing the same to their last known address.

(Code 1964, § 64-1-14)

Sec. 57-2-15. - Same—Hearing before city council.

At the time fixed for the public hearing or at such time designated, the city council shall attend for the purpose of hearing and deciding upon the objections to the proposed improvement. If no sufficient cause to the contrary is shown, the city council may cause the improvement to be made by the recreation department, as set forth in such resolution, and an accurate account of the cost thereof shall be kept by the recreation department.

(Code 1964, § 64-1-15)

Sec. 57-2-16. - Same—Report of costs to council; levy of assessment by council; assessed property not liable for additional assessments for five years.

When the work of such improvement is fully completed and performed, it shall be the duty of the recreation department to report the completion thereof to the city council and, at the same time, report the cost thereof. Upon receiving such report, it shall be the duty of the city council to cause the sum so reported to be assessed upon the lots abutting upon the public highway within the city upon which such improvement has been made in proportion to the frontage of such lots, without regard to location of trees thereof. The sum so assessed for the cost of such improvement shall be levied and collected by the same

officers as are other special assessments. Property having once been assessed for such improvement shall not again be made liable for an additional or further assessment; provided, that if, after a period of five (5) years or after the trees have become definitely established, such trees should die as the result of cause beyond control, the recreation department should not be held liable for replacement of such trees, nor shall any tree be replaced where the location has been found to be detrimental or unsuitable for plant life.

(Code 1964, § 64-1-16)

Sec. 57-2-17. - Same—Assessment roll; interest and penalties.

The assessment roll shall contain a list of lots or parcels of land to be assessed with the name of the owner of each lot or parcel and a total amount to be assessed therein shall be due and payable sixty (60) days after the work for which the assessment levied is completed and assessment roll confirmed; provided, that if such assessment is not paid within the time herein stated, a penalty shall be attached of five (5) per cent of the amount of such part or portion in addition to interest at the rate of six (6) per cent per annum. Assessments so levied shall be a lien on such lands until paid and in default of payment, the lots assessed may be sold therefor in the same manner as provided by law for the sale of land for unpaid special assessments.

(Code 1964, § 64-1-17)

Sec. 57-2-18. - Permit required for planting of trees and shrubs.

It shall be unlawful for any person to plant any trees, shrubs or any other plant in any public highway within the city, either for himself or for anyone else, until he has secured a written permit therefor from the recreation department, which permit shall be complied with in strict accordance with the rules and regulations therein prescribed. The application for such permit shall designate the locations and species of trees, shrubs or plants to be planted and the method proposed to be followed. The recreation department shall have the authority to refuse the granting of such permits when such planting is likely to create a public danger or a nuisance.

(Code 1964, § 64-1-18)

Sec. 57-2-19. - Removal of trees, etc., detrimental to health, safety, etc.; cost of removal.

It shall be the duty of the recreation department to remove or cause to be removed all trees, shrubs or plants planted upon the public highways and public places within the city when, in its judgment, such removal shall be beneficial to the peace, health and safety of the public, for public improvements or where such trees, shrubs or plants are detrimental to the growth of adjacent trees, but in such cases where, in the judgment of the recreation department, there exists the necessity of replacing these trees, shrubs or plants,

the cost thereof shall be at the expense of the abutting property owner, either by direct payment of such amount to the city treasurer or by assessment as provided in this article. The cost for such removals shall be from funds provided therefor from general taxation.

(Code 1964, § 64-1-19)

Sec. 57-2-20. - Deposit required when removing trees for construction of walks, buildings, etc.

Any person desiring to remove a live tree for the construction of walks, drives, buildings or any other structures for his own gain shall deposit with the recreation department a sum equal to the value of the tree, as determined by the department.

(Code 1964, § 64-1-20)

ARTICLE III. - LANDSCAPE GARDENING, TREE WORK, SALE OF NURSERY STOCK, ETC.

DIVISION 1. - GENERALLY

Sec. 57-3-1. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Nursery stock shall mean all trees, shrubs, vines, plants, cuttings, grafts, scions, buds and all other parts of plants capable of propagation.

Peat humus, peat moss, muck, mold shall mean residue of Sphagnum moss, sedge, reeds and similar aquatic plants, decomposed vegetation and organic matter.

Surface soils shall mean all soils containing not less than five (5) per cent and not more than twenty (20) per cent organic matter used exclusively for gardens, lawns and landscape construction and maintenance.

Turf and sward shall mean mixture of earth and grass roots used to form a smooth grassy surface on lawns.

(Code 1964, § 64-2-1)

Cross reference— Definitions and rules of construction generally, § 1-1-2.

Sec. 57-3-2. - Applicability of article.

Unless otherwise provided, this article shall apply to all persons maintaining or conducting business under the following classifications:

- (1) All persons whose profession is to arrange, improve, modify or perpetuate the effects of natural scenery;
- (2) All persons, not growers or original producers of nursery stock, who buy for the purpose of reselling or offering for sale or reshipping, independently of the control of any nurseryman;
- (3) All persons who grow nursery stock for the purpose of selling directly to the consumer;
- (4) All persons digging, selling or offering for sale any native trees, shrubs, vines, hardy perennials or other native plant material growing in wood lots, forest lands or native environments;
- (5) All landscape architects, landscape gardeners, contractors or other persons, who, on behalf of another person, directly or indirectly, buys or negotiates for the purchase of nursery stock or native trees, shrubs and plants, or who negotiates for or actually performs the work of moving the same from one property to another;
- (6) Any person selling nursery stock, humus, muck, mold or other organic substances, under the partial or full control of a nurseryman or of a dealer or other agent, or any person, dealer or agent handling or selling or soliciting orders on a cooperative basis or by other method;
- (7) All persons in the business of pruning, removing, repairing, treating or spraying trees, shrubs, vines or plants;
- (8) All persons selling or soliciting orders for the sale of or distribution of peat humus, peat moss, muck, mold, decomposed vegetation or other organic substances, soils, turf and sward;
- (9) This article shall also apply to all nursery stock, peat humus, peat moss and other organic substances sold or distributed from vessels, vehicles of all description, buildings, docks, wharves, nurseries, sales lots or other premises or property, with or without value, where such articles or substances are kept, stored or disposed of.

(Code 1964, § 64-2-2)

Sec. 57-3-3. - Healthy nursery stock only to be sold.

Only sound, healthy nursery stock stored or displayed under conditions which will maintain its vigor shall be offered for sale. Offering for sale of dead nursery stock or stock seriously weakened by drying, excessive heat and cold, insect pest or plant diseases, or any condition that makes it unable to grow satisfactorily when given reasonable care shall be a violation of the provisions of this article.

(Code 1964, § 64-2-10)

Sec. 57-3-4. - Sale of organic substances by standard measure.

- (a) For the purpose of this article, all peat humus, muck, mold, decayed vegetation and other organic substances, and all surface soils commonly used in landscape construction and maintenance, shall be sold only by volume, in units of cubic yards or by containers having a standard bushel measure of 2150.42 cubic inches.
- (b) Twenty-two (22) bushel measures, reasonably compacted, shall constitute one cubic yard. Nothing in this regulation shall apply to peat moss or peat humus sold by bags or by the bale.

(Code 1964, § 64-2-11)

Sec. 57-3-5. - Bill of sale to be furnished with materials.

All materials, articles or substances sold or disposed of under the provisions of this article shall be accompanied by a bill of sale or similar instrument, which shall denote the following:

- (1) The name and address of the vendor or licensee;
- (2) A full and complete itemized list of materials, articles or substances sold or disposed of;
- (3) Contracts or agreements of purchase or work to be performed shall be clearly denoted on all copies of such instrument, and the purchaser's and vendor's liabilities shall be fully understood and agreed upon by both parties before such documents are signed.

(Code 1964, § 64-2-12)

Sec. 57-3-6. - Investigation and action on complaints.

When a complaint is made that any nursery stock or other materials, articles or substances defined in section 57-3-1 are not delivered or have been misrepresented or the provisions of this Code or other city ordinances violated in any way by the licensee under this article or any person acting in behalf of such licensee, it shall be the duty of the recreation department to make inquiry into the circumstances surrounding such loss, misrepresentation or violation and cause adjustment of same. A continued practice of nondelivery, misrepresentation or other unfair dealing, as evidenced by repeated customer complaints, shall be deemed sufficient cause for the department to recommend the revocation or suspension of any license issued under this article; provided, that the licensee has been duly notified and a hearing has been provided.

(Code 1964, § 64-2-13)

Secs. 57-3-7—57-3-18. - Reserved.

DIVISION 2. - LICENSE^[3]

Footnotes:

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Cross reference— Licenses generally, Ch. 30.

Sec. 57-3-19. - Required.

Every person desiring to engage in the business of gardening, landscape gardening, pruning, removing, repairing, spraying or planting of trees, shrubs, vines or plants, either native or nursery grown, or for the sale or distribution thereof, or for the sale or distribution of peat humus, peat moss, muck, mold, decomposed vegetation, surface soils, turf or sward within the city, shall make written application to the consumer affairs department for a license for that purpose, stating the location of the place where such business will be carried on.

(Code 1964, § 63-2-3)

Sec. 57-3-19.5. - Fee; expiration date.

All applicants receiving licenses under this division shall pay an annual license application fee in accordance with the provisions of chapter 30 of this Code. Licenses issued under this division shall expire annually in accord with the provisions of chapter 30.

(Code 1964, § 64-2-6; Ord. No. 500-H, § 1, 5-5-82; Ord. No. 1-85, § 1, 1-16-85)

Editor's note— Inclusion of a portion of Ord. No. 500-H amendatory of Code 1964, § 64-2-5 as § 57-3-19.5 hereof has been at the discretion of the editor. At the editor's discretion, the provisions of Code 1964, § 64-2-6, concerning expiration, have been transferred from § 30-1-18 of this Code.

Sec. 57-3-20. - Investigation.

The consumer affairs department shall refer all applications for a license under this division to the recreation department. It shall be the duty of the department to examine and investigate each applicant for license as to their qualifications to engage in such business. The department shall have the power to recommend the refusal or rejection of any application for license if it shall appear to the department that the applicant is not qualified to engage in such business or has consistently violated any rule, regulation or ordinance; provided, that the applicant shall have been given proper notice and a hearing shall have been provided.

(Code 1964, § 64-2-4)

Sec. 57-3-21. - License plates for vehicles.

It shall be unlawful for any person licensed under the provisions of this division to use any vehicle in the conduct or maintenance of the business licensed under this division unless such vehicle shall have placed upon it, in a conspicuous place, a plate furnished by the consumer affairs department, identifying such vehicle as the vehicle of the licensee. The fee for such plate shall be established pursuant to chapter 30 of this Code. Trailers attached to vehicles equipped with plates described by this section shall not be required to be equipped with such plates. Trailers attached to passenger vehicles shall have a plate placed thereon.

(Code 1964, § 64-2-7; Ord. No. 500-H, § 1, 5-5-82)

Sec. 57-3-22. - Identification cards for agents.

All agents within the meaning of this division who sell or solicit orders for the sale or distribution of any article or substance defined in this article shall be required to carry, in addition to their regular license, an identification card, which shall be furnished by the recreation department, after the license is furnished by the consumer affairs department. Such agents shall furnish a true photograph of themselves, which shall be affixed to such identification card. Such card shall give a full description as to their names and addresses, the name and class of license and the name and address of the agent's principal. The recreation department shall not approve any application for license unless accompanied by a written request of the agent's principal.

(Code 1964, § 64-2-9)

ARTICLE IV. - DISEASED OR DANGEROUS TREES^[4]

Footnotes:

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Cross reference— *Health and sanitation, Ch. 24; nuisances generally, Ch. 37.*

State Law reference— *Insect, pest and plant disease act, MCL 286.201 et seq., MSA 12.201 et seq.; control of insect pests and contagious plant diseases, MCL 286.251 et seq., MSA 12.263(1) et seq.; Dutch Elm Disease, MCL 41.681, MSA 12.264; destruction of box elder trees, MCL 124.151, MSA 12.270(1).*

Sec. 57-4-1. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Dangerous tree shall mean any tree or part thereof which is in such a condition as would make it likely to fall and thereby injure persons or damage property.

Diseased tree shall mean any tree infected with Dutch Elm Disease.

(Code 1964, § 64-3-1)

Cross reference— Definitions and rules of construction generally, § 1-1-2.

Sec. 57-4-2. - Declared nuisance.

Any diseased or dangerous tree on private property is hereby declared a public nuisance and it shall be unlawful for any owner of real property to maintain any such tree thereon.

(Code 1964, § 64-3-2)

Sec. 57-4-3. - Right of entry to inspect, etc.; distinguishing marks.

- (a) For purposes of enforcing this article, the director of the recreation department or his designated representative may, upon presenting appropriate credentials to the owner, occupants or agents in charge, go upon private property for the purpose of inspecting and determining whether any diseased or dangerous trees are located thereon.
- (b) Whenever the director or his designated representative finds a diseased or dangerous tree on private property, he shall place a distinguishing mark thereon, by blaze or otherwise.

(Code 1964, § 64-3-3)

Sec. 57-4-4. - Notice of violation, etc.; failure to abate; hearing.

- (a) When the director of the recreation department or his designated representative finds a violation of section 57-4-2, he shall issue a notice to the affected owner or owners of record specifying the violation and ordering abatement within a reasonable time from the date notice is issued.
- (b) If the owner or owners of record fail to comply with an abatement order issued pursuant to subsection (a) of this section, the director of the recreation department or his designated representative may issue notice to the owner or owners to appear at a hearing before a hearing officer, who shall be appointed by the director, to show cause why the department should not issue a violation or take or cause to be taken whatever actions are necessary to abate the violation at the expense of the owner or owners. The hearing officer appointed herein shall not be an active employee of the department.
- (c) All notices required by subsection (b) of this section shall be in writing and shall be sent by registered or certified mail to the last known address of the affected owner or owners, return receipt requested. The lack of a signed receipt for a notice duly mailed shall not affect in any manner the validity of the proceedings taken hereunder.
- (d) The hearing officer shall take testimony of the director of the recreation department or his designated representative, the affected owner or owners and any other interested party. The hearing officer shall then render his decision either dismissing the proceedings or authorizing the department to issue a violation or take or cause to be taken whatever actions are reasonably necessary to abate the violation

at the expense of the owner or owners; provided, that whenever the cost of abating the violation would be a financial hardship on the owner or owners, the hearing officer shall be limited to authorizing the department to take or cause to be taken whatever actions are reasonably necessary to abate the violation at the expense of the owner or owners under an extended payment plan provided for by section 57-4-5. The hearing officer shall determine financial hardship according to standards promulgated by the department and approved by the city council.

(Code 1964, § 64-3-4)

Sec. 57-4-5. - Cost of abatement.

The entire cost of abatement actions taken or caused to be taken by the recreation department pursuant to this article shall be paid by the responsible property owner. The owner or party in interest in whose name the property appears upon the last assessment records shall be billed for the amount of such cost by first class mail. If he fails to pay the recreation department within thirty (30) days after billing, the cost shall be reported to the board of assessors who shall assess the cost against the affected property. The assessed cost shall be a lien on the affected real property and the lien shall be enforced in the manner prescribed by this Code and the city Charter for enforcing special assessments or tax liens; provided, that whenever a finding of hardship is made pursuant to section 57-4-4(d), no bill shall be sent by the department to the owner. Instead, the recreation department shall report the cost to the board of assessors as an extended payment assessment. Assessment rolls for such extended payment assessments shall be made in six (6) parts, the parts to be numbered consecutively.

(Code 1964, § 64-3-5)

Sec. 57-4-6. - Possession, storage, etc., of elmwood.

It shall be unlawful in the city to possess, store or otherwise retain the woody portions of any species of elm unless such portions are completely stripped of all bark.

(Code 1964, § 64-3-6)

Sec. 57-4-7. - Penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalty as provided in section 1-1-9; except, that the penalty shall not be less than a fifty dollar (\$50.00) fine.

(Code 1964, § 64-3-7)

ARTICLE V. - ABATEMENT OF WEEDS, BRUSH AND OTHER PLANT GROWTH^[5]

Footnotes:

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Editor's note—Ord. No. 38-04, § 1, adopted Nov. 10, 2004, amended former Art. V, §§ 57-5-1—57-5-6, in its entirety to read as herein set out. Former Art. V pertained to similar subject matter and derived from the Code of 1964 and the following: Ord. No. 7-96, § 1, 3-29-96; Ord. No. 8-87, § 1, 3-18-87.

Cross reference— Health and sanitation, Ch. 24; nuisances generally, Ch. 37.

State Law reference— Deposit of noxious weeds on highways, MCL 247.51, MSA 28.181; control and eradication of noxious weeds, MCL 247.61 et seq., MSA 9.631(1) et seq.

Sec. 57-5-1. - "Poisonous or injurious weeds" defined.

For the purpose of this article, "poisonous or injurious weeds" shall include those species and varieties designated as noxious by Chapter 247, Highways, Control and Eradication of Noxious Weeds, being MCL 247.61 to 247.72. In addition, the following species and varieties of plants are hereby designated as injurious weeds: Ragweed (any species of Ambrosia), poison ivy (*Rhus radicans*), poison sumac (*Toxicodendron vernix*), poison oak (*Toxicodendron quercifolium*), marijuana (*Cannabis staira*) and Belladonna (*Amaryllis belladonna*). The director of the department of health and wellness promotion, or his or her designee, is hereby empowered to designate and declare, by a written rule or regulation, additional species and varieties of plants as injurious within the meaning of this article, on the basis of implication of such species or varieties as actually or potentially injurious to the public health.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-2. - Poisonous, injurious or noxious weeds, certain other brush, or plant growth declared a public nuisance.

Any poisonous, injuries or noxious weeds, any species or variety of plants designated and declared by the director of the department of health and wellness promotion, or his or her designee, to be potentially injurious to the public health pursuant to section 57-2-1 of this Code, any other weeds of any species or variety exceeding eight (8) inches in height, any wild growing brush or underbrush exceeding one (1) foot in height on any land, either public or private, either occupied or vacant, within the city are declared to be a public nuisance.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-3. - Responsibility for abatement of poisonous, injurious or noxious weeds, certain other plant growth declared a public nuisance; abatement by the city.

- (a) The owner of any property is responsible for the abatement of any weeds or plant growth declared to be a public nuisance. It shall be prima facie evidence of ownership where a corporation, partnership or individual is listed as owner of the property in the tract index. In the absence of a written agreement to

the contrary between the owner and any other person, the owner shall be responsible for abatement under this section.

- (b) In any case in which the owner, occupant, agent or other person having control or management of any land allows the presence thereon or on any portion thereof of any weeds, brush or other plant growth which constitute a public nuisance under the provisions of section 57-5-2 of this Code, the Department of Public Works shall notify by certified mail, with return receipt requested, the owner, occupant, agent or person having control of the land on which such weeds, brush, or other plant growth are growing to abate the violation within ten (10) business days.
- (c) Upon the failure, neglect of any such owner, occupant, agent or other person to abate a public nuisance under this article within the stated time, the department of public works may assign such employees to enter upon the land and to destroy such weeds, brush or other plant growth by spraying, cutting or by other acceptable methods or enter into a contract for the destruction of the weeds, brush, or other plant growth; and provided further, that the city shall have a lien upon such lands for such costs and expense, such lien to be enforced in the manner prescribed in state law and in the City Charter for the enforcement of tax liens. Any costs or expense in such abatement, if not paid to the city within sixty (60) days from the date a statement thereof was forwarded to the party, shall be reported to the board of assessors, who shall assess the amount against the land in question; provided, that if the cost or expense on any one parcel of land is not more than fifty dollars (\$50.00), it shall be charged to appropriate funds of the city. A failure to give written notice under this section shall not constitute a defense to any action to enforce the provisions of section 57-5-2 of this Code.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-4. - Publication of notice in lieu of notice required by section 57-5-3; contents of published notice.

In lieu of the notice required by section 57-5-3 of this Code, the department of public works may publish a notice in a newspaper of general circulation in the county during the month of March that weeds, brush or other plant growth not cut by May 1st of that year will be cut by the city and the owner of the property charged with the costs under the provisions of section 57-5-3 of this Code. The publication shall also contain all other information required of the notice provided for in section 57-5-3 of this Code. The city may cut weeds, brush, or other plant growth as many times as necessary and charge the cost or expense to the property owner.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-5. - Enforcing officers granted access to premises; obstruction of officers prohibited; liability of officers in action of trespass.

The authorized representatives of the department of public works shall be granted free access to and from any land for the purpose of investigation to determine whether violations of this article exist, and for the work necessary to accomplish the abatement of any violation of this article found to exist. No person

shall obstruct or prevent such work.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-6. - City reserves right to reject claims for damages.

In the event of destruction or damage of any plant growth not declared by this article to be a public nuisance during the course of normal operations directed at destruction of any plant growth declared to be a public nuisance by this article growing on the same tract, part or parcel of land, the city reserves the right to reject all claims resulting from such damage.

(Ord. No. 38-04, § 1, 11-10-04)

Sec. 57-5-7—57-5-10. - Reserved.