

ORDINANCE #15-2017

ORDINANCE TO AMEND “CHAPTER 74 – VEGETATION” OF THE CITY OF MARLETTE CODE OF ORDINANCES

WHEREAS, the City of Marlette has completed a thorough review of its Code of Ordinances in pursuit of publishing a comprehensive update of the Code of Ordinances book; and

WHEREAS, the following amendments are necessary to complete the update.

THE CITY OF MARLETTE ORDAINS . . . .

**Section 1.** That “Article II – Trees” of Chapter 74 is hereby amended in its entirety as follows:

**Sec. 74-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Private premises* means any lot or parcel of land owned or occupied by any person whether or not improved or any dwelling house, building or other structure whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, gravel, porch, steps, vestibule or mailbox belonging or appurtenant to any dwelling house, building or structure erected thereon.

**Sec. 74-32. Municipal civil infraction.**

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 44-38. Repeat offenses under this article shall be subject to increased fines as set forth in section 44-38.

**Sec. 74-33. Removal, destruction; prohibited; permit.**

No person shall without written consent of the city manager remove, destroy, break or cut down, deface or in any way injure any trees in any highway, street or park within the city, provided that this section shall not apply to the trimming of trees.

**Sec. 74-34. Maintenance of private premises.**

(a) The owner or person in control of any private premises shall at all times maintain the premises free of unsafe trees or limbs. Trees on private property shall be maintained so that no part thereof intrudes or interferes with any use in any street, city right-of-way, or land maintained for public use.

(b) Every owner of any tree on private property overhanging any street or right-of-way shall maintain and trim the branches so that such branches shall not obstruct the light from the streetlamp or obstruct the view of any street or intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. Such owner shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public.

(c) No person shall plant or maintain any tree that interferes with a public utility.

**Sec. 74-35. Failure to trim.**

(a) In all cases of violation of Section 74-34, the City Manager shall, by written notice, order the owner of any tree, shrub, or plant, to trim or cut the same so as to comply with the provisions of this Chapter. The order shall be complied with within a period of 10 days.

(b) Should the owner refuse or neglect to comply with the order within the 10-day period, the City Manager shall cause the necessary work to be performed. In that case, the City shall have an action at law against the owner of the premises for the cost and expenses incident to the work, and shall be entitled to a judgment for the same.

(c) Any failure to comply with the provisions of this Chapter, or with any lawful order of the City Manager after due notice thereof, shall be a violation of this code and punishable as provided herein.

**Sec. 74-46. Street tree removal and replacement.**

These replacement requirements govern the replacement of any undesirable street tree (undesirable is any street tree having characteristics which cause or may cause extreme problems in growth, maintenance, and use as a street tree. Examples: trees with poor health, disease, exceedingly slow growth rate, large-scale breakage and decay.) Responsibility for determining if a tree is undesirable rests with the City Manager or his or her designee. Trees that are questionable as to their removal will be looked at by a tree contractor or other tree expert to help determine if the tree should be removed.

An abutting property owner may make a request for tree removal by submitting a request to the City Manager or his or her designee, who will review the request. Removal work will be governed by the availability of City's contractor to do the work and availability of budgeted funding for tree removal. The City reserves the right to do tree trimming and removal on an annual basis. The City Manager or his or her designee will determine the number of replacement trees to be planted. The number removed and the number planted may not necessarily be the same.

**Section 2.**

This Ordinance is declared necessary for the peace, health and safety of the residents of the City of Marlette and shall become effective upon twenty five days after enactment and publication.

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Mayor

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City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Published: \_\_\_\_\_

The foregoing ordinance was offered by Council Member \_\_\_\_ and supported by Council Member \_\_\_\_\_:

AYES:

NAYS:

ABSENT:

The Clerk declared the ordinance adopted.

I, Sandra Cargill, the duly qualified and acting Clerk of the City of Marlette, Sanilac County, Michigan do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Council at a regular meeting held on Monday, \_\_\_\_\_, 2017, the original of which is on file in the City Office.

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Sandra Cargill, City Clerk