

## ORDINANCE NO. 303

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF BESSEMER BY ADDING A NEW CHAPTER, WHICH SHALL BE DESIGNATED AS CHAPTER 33 OF TITLE III OF SAID CODE.

### CHAPTER 33

#### Tree Ordinance

##### Purpose

3.31 It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Bessemer.

##### Authority and Power

3.32 There is hereby created and established a City Tree Board for the City of Bessemer, which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the City Council. Members of the board shall serve without compensation. The Board shall be convened from time to time, as is necessary to fulfill the purpose of this Ordinance, and by Order of the City Council.

##### Term of Office

3.33 The term of five persons to be appointed by the Mayor shall be three (3) years, except that the term of two of the members appointed to the first board shall be for only one (1) year and the term of two members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

##### Applicability

3.34 This Ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the City; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

##### Licensing

3.35 It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or vines within the City without first producing evidence of certification/license before the City. Businesses engaged in the activities described in this Ordinance are subject to the requirements and procedures of Title VII of the City Code.

### **Insurance**

3.36 Before any license shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$100,000.00 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

### **Landscaping**

3.37 In new subdivisions or when the development of commercial property occurs, the City Forester will review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

### **Adjacent Landowner Responsibility**

3.38 No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the City Forester. The person receiving the permit shall abide by the standards set forth in this Ordinance.

### **Private Trees**

3.39 The City Forester or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary. A public nuisance includes any tree with infectious disease or insect problem; dead or dying trees; a tree or limb(s) that obstruct street lights, traffic signs, the free passage of pedestrians or vehicles; a tree that poses a threat to safety, etc. Legal process for notifying property owners and causing abatement of the nuisance, including removal and billing for costs by the city if action is not taken by the owner shall follow Section 1.11 of Chapter 1 of the City Code. Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the City Forester shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice.

### **Enforcement**

3.40 The City Forester shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges and other plants upon the right-of-

way of any street, alley, sidewalk, or other public place in the City. The governing body shall review specifications promulgated by the City Forester. These standards and specifications shall be published separately and revised as necessary by the Tree Board, and subject to final approval of the City Council.

### Penalties, Claims and Appeals


3.41 Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to provision of the Ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500.00 for each separate offense. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens, as published by the International Society of Arboriculture.

3.42 In the event that a nuisance is not abated by the date specified in the notice, the City Forester is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

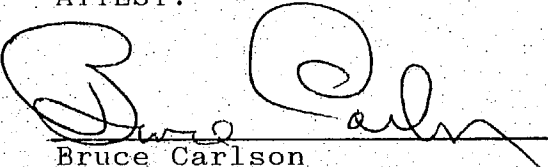
### Judicial Review

3.43 An owner aggrieved by any final decision or order of the City Council may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

Adopted and approved by the City Council for the City of Bessemer, Michigan, this 7th day of February, 1994.

  
Vivian Coleman Mayor

ATTEST:

  
Bruce Carlson Clerk