



CITY OF PLYMOUTH
CITY COMMISSION REGULAR MEETING MINUTES
MONDAY, JULY 15, 2019 - 7:00 P.M.
PLYMOUTH CITY HALL COMMISSION CHAMBERS

City of Plymouth
201 S. Main
Plymouth, Michigan 48170-1637

www.plymouthmi.gov
Phone 734-453-1234
Fax 734-455-1892

1. CALL TO ORDER

Mayor Wolcott called the meeting to order at 7:00 p.m.

PRESENT: Mayor Oliver Wolcott, Mayor Pro Tem Suzi Deal, Commissioners Ed Krol, Nick Moroz, Kelly O' Donnell, Tony Sebastian and Marques Thomey.

ABSENT: None.

Also present City Manager Paul Sincock, City Attorney Robert Marzano and various City Department Heads.

2. CITIZENS COMMENTS

Ellen Elliott of 760 Penniman thanked Chris Porman and team for all they do and the great job they did over the Art in the Park weekend.

3. APPROVAL OF THE AGENDA

A motion was made by Commissioner Thomey and seconded by Commissioner Moroz for approval of the Agenda for Monday July 15, 2019.

MOTION PASSED 7-0

4. ENACTMENT OF THE CONSENT AGENDA

- a) Approval of July 1, 2019 City Commission Regular Meeting Minutes
- b) Approval of June, 2019 Bills

A motion was made by Commissioner Moroz and seconded Commissioner Krol for approval of the Consent Agenda for Monday, July 15, 2019.

MOTION PASSED 7 - 0

5. COMMISSION COMMENTS

Commissioner Thomey thanked everyone involved in putting together the July 4th Parade and Art in the Park, and also thanked Chris Porman and team for all their work.

Commissioner Sebastian stated there is a Know Your Neighbor event 'Fifty Years After the Kerner Report' on July 17th at 7:30 p.m. at the library. He also reminded everyone of the Bumpers, Bikes and Bands event this Sunday in Old Village from 11am-3pm.

Commissioner O'Donnell reminded everyone of the Historic District Commission this Wednesday and encouraged interested residents to attend who are local to the Saxton's property as that is an item on the agenda.

Mayor Wolcott commented that in addition to the July 4th Parade, the Ice Cream Social in Kellogg Park was a great community 'One Plymouth' event that has been held the last few years. He also thanked everyone involved for all their work on events.

Commissioner Krol thanked the kids that volunteered to carry the banner in the parade.

6. PUBLIC HEARING

a) Tree Ordinance Revisions

City Manager Sincok reviewed the proposed Tree Ordinance and again cautioned the City Commission about the legality of entering private property for enforcement of the ordinance and an Administrative Search Warrant from the court would be needed to do so.

Mayor Wolcott opened the public hearing at 7:13 p.m.

Hearing no public comment, Mayor Wolcott closed the public hearing at 7:14 p.m.

A motion was made by Commissioner Krol and seconded by Commissioner Moroz for discussion of the Tree Ordinance revisions.

Commissioner Krol suggested removal of all gender specific references. Commissioner Moroz made a motion for a friendly amendment for this and it was seconded by Commissioner Krol.

Commissioner Krol also asked about Section 34-8 re: stump removal; would like to see language about requiring debris being cleaned up and grading restored to the surrounding grade. Commissioner Krol made a motion for a friendly amendment for this and it was seconded by Commissioner Sebastian.

Commissioner Krol also asked about artistic chainsaw artistry/sculpting of a tree stump of a tree that has been cut down. City Attorney Marzano referenced Section 34-7 as this would be tree-topping, which is prohibited. City Manager Sincok referenced Section 34-8 that requires removal of the stump, so there would be no artwork that utilizes a tree stump- for trees in the front yard. Attorney Marzano questioned what would be considered a 'stump' and it was determined that this item would need further study.

Commissioner Krol asked if trees damaged beyond repair by a storm, etc., would fall under Section 34-18 Item (d) . Mayor Wolcott confirmed that it would, if the tree was damaged beyond repair (considered dying).

Commissioner O'Donnell referenced Section 38-18 Item (a) believes that the replacement rate is too low for Heritage trees and it should be higher to differentiate Heritage trees from Non-Heritage trees. However, she is comfortable with the ordinance overall and is in favor of moving forward.

Mayor Pro Tem Deal agreed with O'Donnell re: the replacement rate and also enforceability and is not in favor of the ordinance as currently written.

Commissioner Sebastian explained the reasoning for keeping the amount lower. He also recognized Adam Gerlach and Greta Bolhuis for all of their work on the ordinance revisions and is favor on moving forward with it as written.

Commissioner Krol also commented that he is not completely in favor of the ordinance as currently written re: enforcement on private property. He also asked about Section 34-16 and the definition of a mature tree. Chris Porman and John Buzuvis confirmed that a tree would be at least 13 feet in height as defined in Section 34-2.

Commissioner Moroz commented that he does not foresee many enforceability incidences and these would only likely happen if a property owner prompted it. He also thinks the rate can be changed if needed on the rate card.

Ellen Elliott of 760 Penniman commented that the tree ordinance and enforceability really is no different than the enforcement of the long grass/weeds ordinance.

Mayor Wolcott is in support of the ordinance as currently written and asked for a vote on the following resolution incorporating the 2 friendly amendments.

MOTION PASSED 5 – 2 (Commissioner Krol and Mayor Pro Tem Deal opposed)

RES. #2019-55

WHEREAS: This is an Ordinance to Amend the Plymouth City Code of Ordinances, Chapter 34, Environment, Article 1, In General, Division 1, Tree Ordinance, by deleting Sections 34-1 through 34-28 and inserting the new Sections 34 - 1 through 34-28;

Chapter 34 - ENVIRONMENT

ARTICLE V. - Trees

DIVISION 1. - GENERALLY

Sec. 34-1. - Intent

The purpose of this chapter is to provide for the protection, preservation, and reforestation of the City of Plymouth's trees and woodlands.

Sec. 34-2. - Definitions.

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

Dead Tree means any tree that has no visible growth (within the appropriate growing season for all deciduous trees), no visible buds, twigs that do not exhibit flexibility, and twigs that do not appear green at the cambium layer when outer bark has been physically removed.

Diameter Breast Height (DBH) means the diameter, in inches, of a tree measured at four and one-half (4½) feet above the existing grade.

Dripline means the imaginary vertical line, which extends downward from the outermost tips of the tree branches to the ground.

Front Yard Tree means any tree located in the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building.

Heritage Tree means any tree that meets the size and species requirements in the table below, or any tree not listed in the table below that is 18 inches DBH or greater.

Common Name	Scientific Name	DBH
Arborvitae	Thuja occidentalis	18"
Ash	Fraxinus species	18"
American Basswood (Linden)	Tilia americana	18"

American Beech	<i>Fagus grandifolia</i>	18"
American Chestnut	<i>Castanea dentata</i>	8"
American Elm	<i>Ulmus americana</i>	18"
Birch	<i>Betula species</i>	18"
Black Alder	<i>Alnus glutinosa</i>	12"
Black Tupelo	<i>Nyssa sylvatica</i>	12"
Black Walnut	<i>Juglans nigra</i>	18"
White Walnut	<i>Juglans cinerea</i>	18"
Buckeye (Horse Chestnut)	<i>Aesculus species</i>	18"
Cedar, Red	<i>Juniperus species</i>	12"
Crabapple (Cultivar)	<i>Malus species</i>	12"
Douglas Fir	<i>Pseudotsuga menziesii</i>	18"
Eastern Hemlock	<i>Tsuga canadensis</i>	12"
Flowering Dogwood	<i>Cornus florida</i>	8"
Ginkgo	<i>Ginkgo biloba</i>	18"
Hickory	<i>Carya, species</i>	18"
Kentucky Coffeetree	<i>Gymnocladus dioicus</i>	18"
Larch/Tamarack	<i>Larix laricina (Eastern)</i>	12"
Locust	<i>Gleditsia triacanthos</i>	18"
Sycamore (London plane tree)	<i>Platanus species</i>	18"
Maple	<i>Acer species (except negundo)</i>	18"
Oak	<i>Quercus species</i>	18"
Pine	<i>Pinus species</i>	18"
Sassafras	<i>Sassafras albidum</i>	15"

Spruce	Picea species	18"
Tulip Tree	Liriodendron tulipifera	18"
Wild Cherry	Prunus species	18"

Large tree means any tree larger than 40 feet in height at maturity.

Medium tree means any tree between 25 feet and 40 feet in height at maturity.

Park tree means any tree located in public parks having individual names, and all publicly owned land, or to which the public has free access as a park.

Private tree means any tree located on land that is owned by an individual or group having a vested or financial interest in the subject property.

Protected Area means the area contained within the dripline of the tree.

Protective Barrier means a physical obstruction that encloses the protected area of a tree and limits vehicular, material, and equipment access.

Small tree means any tree less than 25 feet in height at maturity.

Street tree means any trees planted or located within a public street or road right-of-way.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the trees.

Transplant means the digging up of a tree and the planting of that tree in another place on the same property or off-site property.

Tree means a woody perennial plant, typically having a single stem or trunk which at maturity is 13 feet or more in height and which has a definite crown of foliage.

Tree Fund means the fund to be used exclusively for activities associated with street and park tree inventory protection, maintenance, and planting.

Sec. 34-3. – Prohibited Trees.

The following trees are prohibited to be planted or re-planted:

Common Name	Scientific Name
Ash	Fraxinus species
Autumn and Russian-Olive	Elaeagnus species
Boxelder	Acer negundo
Buckthorn	Rhamnus species
Mulberry	Morus species

Poplar	Populus species
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus altissima
Willow	Salix species

Sec. 34-4. - Tree Care.

(a) All trees shall be planted, pruned, maintained, and removed, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The City reserves the right to remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, is blocking street or sidewalk clearance, or is blocking the spread of light or view of traffic control devices.

(c) If any owner, occupant or person having charge of any land within the city shall refuse or neglect to resolve public safety issues caused by private trees as provided in this chapter, then the City Manager or his/her designee shall cause the land to be entered upon by city employees or a city contractor for the purpose of pruning, or removing said trees at the sole cost to the property owner and such entering upon shall not be deemed a trespass.

Sec. 34-5. - Pruning.

Trees shall be pruned so that branches do not obstruct the light from any street light or obstruct the view of any street intersection. A clear space of fifteen feet above the surface of the street and eight feet above the surface of the sidewalk shall be maintained. The City shall have the right to prune or cause to be pruned any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of roadway, sidewalk, traffic control devices, and/or signs.

Sec. 34-6. – Corner Clearance.

Within the required corner clearance area as defined in Section 78-207, all trees and limbs, including dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public, shall be removed by the property owner upon which the tree is located.

Sec. 34-7. - Tree Topping.

It shall be prohibited for any person to top any tree. Trees severely damaged by storms, an act of God, or other causes out of the City’s or property owner’s control, may be exempted from this section at the determination of the City Manager or his/her designee. This section does not apply to a utility company who may be required to top a tree for purposes of public safety or valid equipment issues.

Sec. 34-8. - Removal of Stumps.

All stumps of street, park, and front yard trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The stump excavation site shall be backfilled to match existing grade as defined in Section 78-21.

Sec. 34-9. - Tree Fund.

This section establishes the City’s tree fund. The purpose of the tree fund shall be to maintain and reestablish the City’s public tree canopy. The City Commission shall review the rate structure annually as part of their budget process.

Sec. 34-10. - Installation and Planting

All trees shall be planted according to ANSI Standards A300.

Sec. 34-11. - Maintenance Provisions.

All trees shall be maintained in a safe, healthy, neat and orderly state free from refuse and debris.

DIVISION 2. – PUBLIC TREES

Sec. 34-12. Permitted Street Trees

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted unless approved, in writing, by City Manager or his/her designee.

(a) *Small trees:*

Common Name	Scientific Name
Cherry, Flowering	Prunus species & hybrids
Crabapple, Flowering	Malus species & hybrids
Dogwood	Cornus species & hybrids
Goldenrain Tree	Koelreuteria paniculata
Hawthorn	Crataegus species
Lilac, Japanese Tree	Syringa reticulata
Magnolia	Magnolia hybrids
Magnolia, Star	Magnolia stellata
Maple, Amur	Acer ginnala
Maple, Paperbark	Acer griseum
Maple, Tatarian	Acer tataricum
Maple, Trident	Acer buergeranum
Peach, Flowering	Prunus species & hybrids
Plum, Flowering	Prunus species & hybrids
Redbud, Eastern	Cercis canadensis
Serviceberry	Amelanchier species & hybrids

(b) *Medium trees:*

Common Name	Scientific Name
Amur Maackia	Maackia amurensis
Corktree, Amur, Fruitless Male	Phellodenron amurense
Hophornbeam, American	Ostrya virginiana
Hornbeam, American	Carpinus caroliniana
Hornbeam, European	Carpinus betulus
Horsechestnut, Red	Aeculus x carnea

Maple, Bigtooth	Acer grandidentatum
Maple, Hedge	Acer campestre
Maple, Shantung	Acer truncatum
Mountain Ash	Sorbus species
Mulberry, Red Fruitless Male	Morus rubra, fruitless varieties
Osageorange, Thornless Male	Maclura pomifera
Pagodatree (Scholartree)	Styphnolobium (Sophora) japonicum
Paw Paw	Asimina triloba
Pear, Flowering	Pyrus species & hybrids
Sassafras	Sassafras albidum
Yellowwood	Cladrastis kentukea

(c) *Large trees:*

Common Name	Scientific Name
Baldcypress	Taxodium distichum
Beech, American	Fagus grandifolia
Beech, European	Fagus sylvatica
Blackgum (Tupelo)	Nyssa sylvatica
Catalpa, Northern	Catalpa speciosa
Chestnut	Castanea hybrids
Coffeetree, Kentucky	Gymnocladus dioicus
Elm, American Dutch Elm resistant varieties	Ulmus hybrids
Filbert, Turkish	Corylus colurna
Ginkgo (Maidenhair Tree), Fruitless Male	Ginkgo biloba
Hackberry	Celtis occidentalis
Hardy Rubber Tree	Eucommia ulmoides
Hickory	Carya species
Honeylocust	Gleditsia triacanthos
Horsechestnut	Aesculus species
Katsura Tree	Cercidiphyllum japonicum
Linden, American	Tilia Americana
Linden, Littleleaf	Tilia cordata
Linden, Silver	Tilia tomentosa
Maple, Black	Acer nigrum
Maple, Freeman Hybrid	Acer x freemanii
Maple, Miyabe	Acer miyabei
Maple, Norway	Acer platanoides

Maple, Red	Acer rubrum
Maple, Sugar	Acer saccharum
Maple, Sycamore	Acer pseudoplatanus
Oak, Bur	Quercus macrocarpa
Oak, Chinkapin	Quercus muehlenbergii
Oak, English	Quercus robur
Oak, Northern Red	Quercus rubra
Oak, Pin	Quercus palustris
Oak, Sawtooth	Quercus acutissima
Oak, Scarlett	Quercus coccinea
Oak, Shingle	Quercus imbricaria
Oak, Shumard	Quercus shumardii
Oak, Swamp White	Quercus bicolor
Oak, White	Quercus alba
Planetree, London	Platanus x acerifolia
Redwood, Dawn	Metasequoia glyptostroboides
Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Tuliptree	Liriodendron tulipifera
Walnut, Black	Juglans nigra
Zelkova	Zelkova serrata

Sec. 34-13. - Distance from street corners and fire hydrants

No tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No tree shall be planted closer than ten feet from any fire hydrant.

Sec 34-14. - Distance from curb and sidewalk.

Trees planted in the area between the curb or curb lines and sidewalks shall be in accordance with the three species size classes listed in Section 34-13. No trees may be planted within any area between the curb or curblines and sidewalk other than the following: Small trees: two (2) feet; Medium trees: three (3) feet; and Large trees: four (4) feet.

Sec. 34-15. – Distance from utilities.

No trees, other than those species listed as small trees in section 34-13(a), may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility.

Sec. 34-16. – Tree Size.

The minimum size for a street tree or park tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety, have a single stem with branching limbs, and branches must be at least eight feet off the ground at maturity, as predicated by the size definitions in Section 34-2.

Sec. 34-17. Removal of Street Trees.

(a) Should a property owner wish to have the street tree adjacent to his or her property removed, he or she shall submit a request, in writing, to the City Manager or his/her designee. Within 10 business days of the receipt of the request an ISA certified arborist, provided by the City, will perform a condition and risk assessment. The cost for this service shall be borne by the property owner making the request. Following the condition and risk assessment by the ISA certified arborist, if the street tree is found to be dead, diseased, or dying the City shall remove the street tree at the City's cost. Following the condition and risk assessment by the ISA certified arborist, if the street tree is not found to be dead, diseased, or dying, the tree shall remain.

(b) Only in extenuating circumstances, as determined by the City Manager or his/her designee, shall a healthy street tree be removed or caused to be removed. Such extenuating circumstances shall include but are not limited to catastrophic event, repair, replacement, or maintenance of underground utilities, or an act of God.

DIVISION 3. - PRIVATE TREES

Sec. 34-18. - Removal and Replacement of Heritage Trees

This section shall apply to all private heritage trees. Each heritage tree that is removed shall be replaced in a manner consistent with the following subsections.

(a) Heritage trees shall be replaced at a rate of 25% of the DBH of each tree removed.

(b) If the tree(s) cannot be reasonably placed on the property, the property owner shall pay into the tree fund at a rate defined by the City Commission and stated on the Rate Card, rounded up to the nearest 0.5 inch of DBH required to be replaced by Section 34-19(a).

(c) Replacement tree(s) shall be located on the parcel(s) where each heritage tree is removed or in the right-of-way adjacent to the affected property.

(d) Trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.

(e) If the requirements of Section 34-19(a) and (b) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. The City Manager or his/her designee may consider alternate locations on a case by case basis.

(f) The minimum size for a replacement tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety.

Sec. 34-19. – Electively Removed Trees.

This section shall apply to any front yard trees with a DBH of six (6) inches or greater but less than the heritage tree standard for that species. Each tree that is removed shall be replaced in a manner consistent with the following subsections.

(a) Front yard trees shall be replaced at a rate of 25% of the DBH of each tree removed.

(b) If the front yard tree(s) cannot be reasonably placed on the property, the property owner shall pay into the tree fund at a rate defined by the City Commission and stated on the Rate Card, rounded up to the nearest 0.5 inch of DBH required to be replaced by Section 34-20(a).

(c) Replacement front yard tree(s) shall be located on the front yard of the parcel(s) where each front yard tree is removed or in the right-of-way adjacent to the affected property.

(d) Front yard trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.

(e) If the requirements of Section 34-20(a) and (b) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. The City Manager or his/her designee may consider alternate locations on a case by case basis.

(f) This section only applies to front yard trees and does not apply to trees located in the rear or side yard of a private parcel of land, except if the tree is determined to be a heritage tree.

(g) The minimum size for a replacement tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety.

Sec. 34-20. - Dead Tree Removal on Private Property.

The City shall have the right to cause the removal of any dead tree on private property within the City when such trees constitute a hazard to life or property. The City will notify, in writing, the owners of such trees. Removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon the owner's failure to comply with such provisions, the City shall have the authority to remove such trees at a rate set by the City Commission. The City Manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by Section 12.22 of the City Charter.

Sec. 34-21. - Diseased Trees on Private Property.

The City shall have the right to cause the removal or treatment of any diseased tree on private property within the City when such tree constitutes a hazard to life or property or harbors deadly insects or disease which constitutes a potential threat to other trees within the City. Treatment of a diseased tree shall include chemical treatment to render the disease or affliction non-threatening to any affected tree. The City will notify, in writing, the owners of such trees. Treatment or removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon failure of owners to comply with such provisions, the City shall have the authority to treat or remove such trees and charge the cost of treatment or removal at a rate set by the City Commission. The City Manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by Section 12.22 of the City Charter.

Sec. 34-22. – Installation of Street Trees for New Residential Construction.

(a) Residential property owners shall install one (1) new street tree at the effected property when a new construction home is built. If the right-of-way adjacent to the residential property is not suitable for the long-term health requirements of a tree based on Sec. 34-14 through Sec. 34-16, the property owner shall pay into the tree fund at a rate set by the City Commission.

(b) Residential property owners must choose one of the following tree replacement processes from the following three options:

(1) Plant a tree before any Certificate of Occupancy is issued.

(2) Pay into the tree fund prior to the issuance of any Certificate of Occupancy at a rate approved by the City Commission.

(3) Property owner plans to plant a tree within one year of Final Certification of Occupancy issuance. Property owner pays a cash bond at a rate approved by the City Commission before any Certificate of Occupancy is issued. The bond will be refunded once the tree is planted and the property owner notifies the City in writing of planting. If the tree is not planted within one year, the bond is forfeited to the Tree Fund.

Sec. 34-23. - Tree Protection Standards during Construction.

(a) When a building permit is required for work including accessory structure, addition, approach/drive, carport/porte cochere, deck, demolition, egress window, fence, foundation, land division/combination/reconfiguration, new construction, patio, parking lot, pergola, porch, pool, ground sign, or any other changes the lot coverage or floor area ratio of the property, existing front yard and heritage trees shall be indicated on a boundary survey to include property boundaries, topography, and tree size, location, and species, and existing and proposed structure(s) and building envelop. The survey shall be submitted to the City in a compatible digital format.

(b) During construction, protective fencing shall be placed at the drip line of the street, park, and/or front yard or heritage private tree(s). The ground area within the drip line shall be maintained undisturbed from its pre-construction state.

(c) Vehicles, materials, and equipment are prohibited from being stored in, staged in, or driven through the protected area of the front yard or heritage tree. Practical difficulties shall be dealt with by the Administration on a case by case basis.

(d) If the protected area of the front yard or heritage tree falls within the building envelop, every precaution shall be taken to preserve and protect the affected tree(s).

DIVISION 5. - ADMINISTRATION AND ENFORCEMENT

Sec. 34-24. Permits required

(a) A permit is required for the removal or relocation of any street, park, or front yard tree with a DBH of six (6) inches or greater, or any heritage tree.

(b) Permits shall be obtained by submitting a tree removal and replacement plan on a form provided by the Community Development Department. The plan shall contain the following information:

(1) Owner information and address or parcel number of the property on which the front yard tree or heritage tree is located, or the same of the property adjacent to the street tree.

(2) A site plan/sketch drawing showing the location, size, and species of each front yard or heritage tree to be removed and showing the same for new tree(s) to be planted.

(d) City Administration shall review the application for compliance with this Chapter.

(e) Discretionally removed trees or trees that are intentionally damaged that are not replaced according to the provisions of this chapter require payment into the tree fund at the rate established by the City Commission.

Sec. 34-25. Notice.

The City Manager or his/her designee shall notify, by first class mail or by posting notice in a conspicuous location on the property, the owner, agent or occupant of any lands on which a violation of this chapter is found to exist. Such notice shall require that the person having charge of such land to resolve any violations of this chapter; and shall contain a summary of the provisions of this chapter. Failure of the City Manager or his/her designee to give notice shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for, or debt created under, the provisions of this chapter. If the property is not in compliance with this article at the end of the period specified in the notice of violation, an appearance ticket may be issued.

Sec. 34-26. Penalty and Enforcement.

(a) The City shall have the right to enter property to investigate the removal of front yard or heritage trees on private property. The penalty for removal of front yard or heritage tree(s) without a required permit shall be a civil infraction plus a \$500.00 fine, per tree. In addition to the fine, the offender shall pay fair market replacement per front yard or heritage tree removed based on a minimum size of 18 inch DBH.

(b) A person who violates any provision of this Chapter 34 or the terms or conditions of a permit is responsible for municipal civil infraction; and shall be subject to payment of not less than \$500.00, plus costs and other sanctions, for each infraction.

Sec. 34-27. Appeals

Any appeals to this chapter shall be submitted, in writing, on a form provided by the City Manager or his/her designee within 21 days of the administration's determination. Appeals cannot be made when a determination includes a healthy, safety, welfare concern.

Sec. 34-28. Severability

The various parts, sentences, paragraphs, sections, and clauses of this chapter 34 are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter 34 is adjudged unconstitutional or invalid by any court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter 34.

First Reading 7/1/19
Public Hearing 7/15/19
Final Reading 7/15/19

7. OLD BUSINESS

a) Fireworks Ordinance Revisions – 2nd Reading

RES. #2019-56

An Ordinance to Amend the Plymouth City Code, Chapter 54 – Offenses and Miscellaneous Provisions, Article 1 – General, Section 54-6 through 54-8, Sale or use of fireworks, definitions, Use of consumer fireworks prohibited; exceptions, Display and articles pyrotechnic fireworks. The following changes are proposed at the First Reading of Sections 54-6 through 54-8:

Sec. 54-6. - Sale or use of fireworks—Definitions.

As used in sections 54-6 through 54-8:

Act means the Michigan Fireworks Safety Act, MCL 28.451 et seq., as that statute may be amended from time to time, which is hereby adopted by reference as part of the ordinance from which this section derives.

Agricultural and wildlife fireworks means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.

Articles pyrotechnic means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1 to 3.1.1.8, and 3.5.

Novelties means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than one-fourth of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (3) Flitter sparklers in paper tubes not exceeding one-eighth-inch in diameter.

- (4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

Special effects means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(Ord. No. 2013-02, 6-17-13)

Editor's note— Ord. No. 2013-02, adopted June 17, 2013, amended the Code by adding provisions numbered as §§ 54-1—54-3. In order to avoid conflicts in section numbering the editor has renumbered these provisions as §§ 54-6—54-9.

Sec. 54-7. - Use of consumer fireworks prohibited; exceptions.

(a) The ignition, discharge or use of Consumer fireworks is prohibited, except that Consumer fireworks may only be ignited, discharged or used on the days and times specified below. The sanction for a violation of this subsection is deemed a civil infraction, punishable by a fine of not more than \$1000.00, unless otherwise provided, of which \$500.00 of the fine will be remitted to the Plymouth Police Department.

- December 31 from 11:00 a.m. until 1 a.m. on January 1.
- The Saturday and Sunday immediately preceding Memorial Day from 11:00 a.m. until 11:45 p.m. on each of those days.
- June 29 to July 4 from 11:00 a.m. until 11:45 p.m. on each of those days.
- July 5, only if that date is a Friday or Saturday, from 11:00 a.m. until 11:45 p.m.
- The Saturday and Sunday immediately preceding Labor Day from 11:00 a.m. until 11:45 p.m. on each of those days.
- It shall be unlawful for any person to ignite, discharge or use consumer fireworks, as such term is defined in section 54-6 except for the use of consumer fireworks on the day preceding, the day of, or the day after the following national holidays in accordance with the listed prohibited hours of use:-

Holiday	Prohibited Hours of Use
New Year's Day, January 1	1:00 a.m.—8:00 a.m.
Martin Luther King, Jr. Day, the third Monday in January	12:00 midnight—8:00 a.m.
Washington's Birthday, the third Monday in February	12:00 midnight—8:00 a.m.
Memorial Day, the last Monday in May	12:00 midnight—8:00 a.m.
Independence Day, July 4	12:00 midnight—8:00 a.m.
Labor Day, the first Monday in September	12:00 midnight—8:00 a.m.
Columbus Day, the second Monday in October	12:00 midnight—8:00 a.m.
Veterans Day, November 11	12:00 midnight—8:00 a.m.
Thanksgiving Day, the fourth Thursday in November	12:00 midnight—8:00 a.m.
Christmas Day, December 25	12:00 midnight—8:00 a.m.

- (b) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this subsection, a person that violates this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$500.00.
- (c) Consumer fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or controlled substance or a combination of both.
- (d) Low-impact fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or controller substance or a combination of both.
- (e) *Unmanned free-floating devices*: Any unmanned free-floating device (sky lantern) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.
- (f) *Novelties*. This section does not apply to novelties.
- (g) No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.
- (h) If a police officer determines that a violation of this section has occurred, the officer may seize the consumer fireworks as evidence of the violation.
- (i) Unless otherwise provided in this section, if a person knowingly, intentionally, or recklessly violates this section, the person is guilty of a crime as follows:
 - (1) Except as otherwise provided in this section, a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$500.00, or both.
 - (2) If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(Ord. No. 2013-02, 6-17-13)

Sec. 54-8. - Display and articles pyrotechnic fireworks.

- (a) Pursuant to MCL 28.451 et seq., (the "Act") the city may grant a permit, upon application in writing on forms provided by the department of licensing and regulatory affairs, for the use of the following:
 - (1) Agricultural or wildlife fireworks (as defined in the Act);
 - (2) Articles pyrotechnic;
 - (3) Display fireworks; or
 - (4) Special effects manufactured for outdoor pest control.
- (b) Such a permit granted by the city shall be subject to payment of a fee to the city, and shall be for either public or private displays within the city by the city, fair associations, amusement parks, or other organizations or individuals approved by the city, as long as the applicable conditions and requirements of the Act are complied with.
- (c) Before a permit for display fireworks or articles pyrotechnic firework ignition is granted, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city to satisfy claims for damages to property or personal injuries out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.
- (d) The city shall not approve or otherwise grant a permit for display fireworks or pyrotechnic fireworks ignition to a nonresident person, firm, or corporation until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.
- (e) Pursuant to the Act, the city shall rule on the competency and qualification of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

(Ord. No. 2013-02, 6-17-13)

A motion was made by Commissioner Moroz and seconded by Commissioner Krol for approval of the above resolution.

MOTION PASSED 7 – 0

8. NEW BUSINESS

a) Adoption of Tree Ordinance Rate Card

RES. #2019-57

RATE CARD

This rate card is separate from the ordinance and shall be reviewed by the City Commission annually.

Rate Description	Cost
Heritage tree replacement (Sec. 34-19(a))	\$150.00 per inch required to be replaced
Non-heritage tree replacement (Sec. 34-20(a))	\$100.00 per inch required to be replaced
Dead tree removal on private property, if owner fails to comply with requirements, after proper notification (Sec. 34-21)	Cost of work plus \$500 fine
Diseased tree removal or treatment on private property if owner fails to comply with requirements, after proper notification (Sec. 34-22)	Cost of work plus \$500 fine
Installation of street tree for new construction (Sec. 34-23(a))	\$400.00
Cash bond to ensure street tree planting for new construction (Sec. 34-23(b)(3))	\$400.00
Trees removed without first obtaining a permit (Sec. 34-25)	Replacement cost of 18" DBH tree plus \$500 fine

Heritage Tree Replacement Scenario

American Chestnut that is 10" DBH

10 * 25% = 2.5 inches, rounded up to 3.0 inches of replacement tree required or \$450.00

American Elm that is 20" DBH

20 * 25% = 5 inches of replacement tree required or \$750.00

Kentucky Coffeetree that is 30" DBH

30 * 25% = 7.5 inches, rounded up to 8.0 inches of replacement tree required or \$1,200.00

Private Tree Replacement Scenario

American Chestnut that is 7" DBH

7 * 25% = 1.75 inches, rounded up to 2.0 inches of replacement tree required or \$200.00

American Elm that is 12" DBH

12 * 25% = 3 inches of replacement tree required or \$300.00

Kentucky Coffeetree that is 17" DBH

17 * 25% = 4.25 inches, rounded up to 5.0 inches of replacement tree required or \$500.00

A motion was made by Commissioner Moroz and seconded by Commissioner Krol for approval of the above resolution.

Commissioner Sebastian agrees that the rate could be higher-possibly \$250- in order to differentiate the Heritage trees.

Commissioner Moroz supports raising the rate for Heritage trees to \$100 and monitoring it, but it should not be more than \$200.

Commissioner Thomey commented that it could be passed as suggested by Administration and changed in the future if necessary.

Commissioner O'Donnell would like to see Heritage trees at \$150 to differentiate them.

Commissioner Krol questioned how the proposed rates compare to other communities. He also agrees that Heritage trees can be differentiated and we should monitor it and revise as needed. Chris Porman explained that, from the rates they have reviewed, it was kept on the lower end to help with enforcement.

Mayor Wolcott is in support as presented, but also supports differentiating the Heritage trees as long as it isn't too high to impede enforcement- possibly \$150.

Attorney Marzano is comfortable with differentiating Heritage trees at a reasonable rate as to not impede enforcement at the court level.

A motion was made by Commissioner Moroz and seconded by Commissioner Krol for a friendly amendment to set the Heritage tree rate at \$150.

MOTION PASSED as amended 7 – 0

b) Police Radio Purchase

City Manager Sincock reviewed and explained this item and there was discussion as to the value and/or usefulness of the old radios.

RES. #2019-58

WHEREAS The City of Plymouth uses a variety of two-way radios in order to help protect the public health, safety and welfare; and

WHEREAS From time to time these radios need to be replaced; and

WHEREAS The State of Michigan requires certain types and models of radios to be used on their system and they offer special state pricing for new radios.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize the purchase of three Kenwood NX5400 radios and accessories in the total amount of \$5,010.90. Funding for this purchase is authorized from the OWI-Forfeiture Fund.

A motion was made by Commissioner Sebastian and seconded by Commissioner Moroz for approval of the above resolution.

A motion was made by Mayor Pro Tem Deal and seconded by Commissioner Thomey for a friendly amendment to correct the resolution for the number of radios purchased from 6 radios to 3.

MOTION PASSED as amended 7 – 0

9. REPORTS AND CORRESPONDENCE

a) Liaison Reports

Commissioner Krol reported on the recent ZBA meeting- One request was withdrawn and another was approved with restrictions for a variance for a fence height exceeding 30 inches in the front yard of 500 S. Harvey on the Wing St. side.

10. ADJOURNMENT

Hearing no further discussion, Mayor Wolcott asked for a motion to adjourn. A motion to adjourn was made by Commissioner Krol and seconded by Commissioner Sebastian for adjournment of the meeting at 7:57 p.m.

MOTION PASSED 7 – 0