

Chapter 214

TREES

[HISTORY: Adopted by the Town Board of the Town of Irondequoit 1-20-1977 as Ch. 44, Art. III, of the 1977 Code; amended in its entirety 12-18-2018 by L.L. No. 10-2018. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 94.

Freshwater wetlands — See Ch. 142.

Christmas tree sales — See Ch. 110.

Town property — See Ch. 164, Art. I.

ARTICLE I
General Provisions

§ 214-1. Purpose.

It is the purpose of this chapter to regulate the planting of trees within the highways and public places of the Town of Irondequoit, to enhance the visual and aesthetic appearance of the community, to encourage a sense of open space and to provide for the protection, care and preservation of trees.

§ 214-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE — Detailed specifications and standards of practice regarding such arboricultural activities as planting site and tree selection, site preparation and tree planting, maintenance, removal, replanting and replacement.

COMMERCIAL TREE SERVICE — Any person that provides tree services for consideration, including but not limited to tree trimming, tree cutting, limb removal, pruning, thinning, cabling, topping, root pruning, and stump grinding. "Commercial tree service" shall not include landscaping functions on lawns, yards, shrubs, gardens, patios, and related grounds; any work performed by the owner or occupant of the property; nor any work performed by a utility company or municipality.

COMMISSIONER OF PUBLIC WORKS — The Commissioner of Public Works/Superintendent of Highways of the Town of Irondequoit or his/her authorized representative.

HIGHWAY — The entire width of every public way or right-of-way when any part thereof is open to the use of the public for purposes of vehicular and/or pedestrian traffic.

MASTER TREE LIST — A listing of suitable and desirable types and species of trees able to thrive in Town highways and other public places of the Town.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE — All grounds owned by the Town of Irondequoit or under its control or supervision, whether owned, leased, or under contract of the Town, including but not limited to highways.

TOWN — The Town of Irondequoit, lying within the County of Monroe, State of New York.

TOWN FORESTRY PLAN — An annual written review and description of Town forestry goals, objectives and such related activities as updating the arboricultural specifications and standards of practice and the master tree list, conducting street tree surveys, planting trees and sponsoring educational programs for the public.

TOWN FORESTRY PROGRAM — A comprehensive, multiyear program promoting the purpose of this chapter.

TOWN TREE — Any tree now or hereafter growing in a public place, including but not limited to any Town highway.

TREE DEBRIS — Any material generated by, produced by, or otherwise due to commercial tree service activities, including sticks, branches, limbs, stumps, and trunks, and other similar woody vegetation.

ARTICLE II
Tree Regulations

§ 214-3. Tree Board established.

In addition to the powers and duties set forth in Chapter 12 of the Irondequoit Code, the Town of Irondequoit Conservation Board, together with the Commissioner of Public Works, shall have the power to:

- A. Develop and recommend a Town forestry program to the Town Board.
- B. Develop and recommend an annual written Town forestry plan to the Town Board, as described in § 214-4 of this chapter.
- C. Develop and recommend arboricultural specifications and standards of practice to be adopted by the Town Board.
- D. Provide advice and consultation regarding trees to any Town board or department.
- E. Receive, review, and make recommendations to the Commissioner of Public Works on applications from property owners pursuant to § 214-7 for tree plantings, pruning and removals on a public right-of-way.

§ 214-4. Town forestry plan.

The Town forestry plan, after adoption by the Town Board, shall constitute the official Town forestry plan for the Town and, unless otherwise designated therein, shall be administered by the Town Conservation Board. The Town forestry plan shall define the annual goals and objectives of the Town forestry program and shall include a current statement of arboricultural specifications and standards of practice and a current master tree list and street tree inventory. Nothing contained in the Town forestry program, Town forestry plan, or the arboricultural specifications and standards of practice shall abridge the authority of the Commissioner of Public Works as provided for under New York State law.

§ 214-5. Maintenance of Town trees.

- A. The Town or its authorized agent shall have the right to perform all necessary maintenance to preserve and protect Town trees in a safe and healthy condition, including trimming, spraying, watering, staking, treating for disease or injury, and removal.
- B. Nothing contained in this chapter shall be deemed to impose liability upon the Town, the Town Board, the Conservation Board or individuals, companies or corporations hired by the Town, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant that he/she planted in the right-of-way of a public street or that is on his/her property from constituting a hazard or an impediment to travel or vision upon any street, sidewalk, park or other public place within the Town.

§ 214-6. Prohibited actions.

No person shall cut, carve, injure, paint, harm, remove, damage or otherwise deface any Town tree; attach or fasten any advertisement, notice, wire, nail, poster or other sign; allow any brine, oil, gasoline, or other substance deleterious to tree life to lie, leak, pour, flow or drip on or into the soil around the base of a tree which could injure such tree.

§ 214-7. Application to plant or remove Town tree.

No person, except the Town or its agents acting on the Town's behalf or as authorized pursuant to § 214-9, shall plant, remove, replant, and/or replace a tree or shrub in a public place without first submitting an application to the Town Commissioner of Public Works and obtaining his or her approval therefor. The applicant shall pay for all costs associated with said tree planting, tree removals, or tree replacements. All work authorized pursuant to this section shall comply with the arboricultural specifications and standards of practice adopted by the Town Board.

§ 214-8. Removal of frees from private property.

- A. Private property owners have the duty, at their own expense, to cut down and remove any trees upon their property (including those within a highway or right-of-way) that are dead, harbor insects or disease, or which are so damaged as to be a public nuisance and in danger of falling, thereby causing damage to person or property of others. The Commissioner of Public Works, on his or her own action or upon the recommendation of the Conservation Board, may order the removal of a tree or shrub for the reasons stated above.
- B. It shall be the duty of any person or persons owning real property to prune any trees thereon in such a manner that they will not obstruct or shade street lights, obstruct the passage of pedestrians on sidewalks, obstruct the visibility of traffic signs, obstruct or hinder the flow of traffic or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks and 14 feet over all streets.

§ 214-9. Public service corporation permits.

The Town Commissioner of Public Works/Superintendent of Highways may, with the consent of the Town Board, issue to any public service corporation having facilities within the Town a permit covering all operations of such corporation with the Town, authorizing such public service corporation to trim or remove trees if necessary. Such operation shall be done in accordance with the arboricultural specifications and standards of practice adopted by the Town Board and such other or further conditions as the Town Commissioner of Public Works/Superintendent of Highways or Town Board may require.

§ 214-10. Enforcement.

- A. The Commissioner of Public Works shall have control of all Town trees and may review and enforce complaints for injury to same. Violation of any provision of this article is hereby declared to be a misdemeanor and punishable as provided in § 1-16 of the Town Code.

- B. Nothing in this chapter shall limit the authority of the Commissioner of Public Works and/or the Town Board to take such other and further actions and to avail itself and the Town of any right or remedy available to it under this chapter or otherwise under the Town of Irondequoit Code or other applicable law deemed necessary or appropriate to abate any violation of this chapter and/or any public nuisance so as to ensure the protection of the health, safety and welfare of the public.

ARTICLE III
Commercial Tree Services

§ 214-11. License required.

- A. All commercial tree services operating within the Town are required to be licensed according to this chapter. The Commissioner of Public Works shall be authorized to issue licenses for commercial tree services.
- B. A list of all licensed commercial tree services shall be available upon request to the public and may be posted on the Town website.
- C. All licensed commercial tree services must comply with the arboricultural specifications and standards of practice adopted by the Town Board.

§ 214-12. Application procedure.

- A. An application for a commercial tree services license (hereinafter "commercial tree services license") shall be made by the owner of the commercial tree service business on forms provided by and filed with the Town Clerk and must include proof of insurance in compliance with § 214-13. The Commissioner of Public Works is charged with approving or denying applications.
- B. If an application for a license is denied or an existing license is revoked, the applicant or holder of the revoked license may, within 10 calendar days of notice of denial or revocation, request reconsideration by the Commissioner of Public Works by providing him or her with any additional, relevant information. The Commissioner of Public Works shall, within 10 calendar days of receipt of the reconsideration materials, issue a final notice of denial or revocation setting forth the grounds upon which the license was either denied or revoked. Such final notice shall be transmitted by certified or registered mail.

§ 214-13. Fees and insurance.

- A. An annual fee shall be charged for licenses issued pursuant to this chapter. Such fee shall be determined by the Town Board, by resolution, and may be adjusted on an annual basis.
- B. Commercial tree services must meet the following insurance requirements:
 - (1) A minimum of \$1,000,000 per occurrence and \$3,000,000 annual aggregate for general liability insurance for bodily injury and property damage, including products and completed operations liability coverage, and automobile coverage with a financially sound insurance company admitted to do business in the State of New York is required. **[Amended 1-18-2022 by L.L. No. 1-2022]**
 - (2) The Town of Irondequoit shall be named as an additional insured.
 - (3) All applicants must sign an indemnification agreement provided by the Town. Contractual liability insurance must include coverage for said indemnification agreement.

- (4) A minimum of 30 days' advance notice of cancellation or nonrenewal must be given to the Town of Irondequoit, Town Clerk's Office, 1280 Titus Avenue, Rochester, New York 14617.
- (5) Applicants must also provide proof of other coverage required by law, including workers' compensation and disability benefits.

§ 214-14. Expiration of license; renewal.

Commercial tree services license shall expire annually on December 31 after the date of issuance. Renewals shall be issued pursuant to the same procedures set forth in § 214-12.

§ 214-15. Tree debris.

Commercial tree services are prohibited from placing tree debris in any highway or other public place within the Town.

§ 214-16. Revocation and suspension of license.

- A. The Commissioner of Public Works may revoke a commercial tree services license for the following reasons:
 - (1) Fraud, misrepresentation or any false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on a commercial tree service.
 - (3) Any violation of this chapter.
 - (4) Any violation of the arboricultural specifications and standards of practice adopted by the Town Board.
 - (5) Conviction of any crime or misdemeanor involving dishonesty or moral turpitude.
 - (6) Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. If the licensee has one or more employees, agents or contractors, the revocation hereunder shall apply to all employees, agents or contractors.

§ 214-17. License to be in possession of person performing work.

The commercial tree services license issued pursuant to this chapter or a photocopy signed by the licensee shall be in the actual possession of the person performing commercial tree services at all times while performing such work.

§ 214-18. Enforcement.

Violation of any provision of this article is hereby declared to be a misdemeanor, punishable as provided in § 1-16 of the Town Code.