

City of Manton, MI – Tree Ordinance

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ARTICLE III. TREE ORDINANCE

Sec. 14-91. Definitions.

As used in this article, the following terms or phrases have the indicated meanings, unless the context clearly indicates otherwise:

The word "shall" is mandatory and not merely directory.

(Ord. No. 2006-01, 10-9-2006)

Sec. 14-92. Purpose.

(a) *Preamble.* Whereas, the City of Manton has plans to plant, replace, and maintain trees on public property; and the terms and provisions of this section are intended to accomplish the following public purposes:

(b) *Health and welfare of the community.* Whereas, the City Council of the City of Manton, Michigan has determined that the protection of trees on public property with the city is not only desirable but essential to the present and future health, safety, and welfare of all citizens; and

It is the intent of this part to promote the community health and welfare by protecting trees and woodlands for the unique benefits they provide.

(c) *Be it ordained:* Whereas, the governing body has determined it necessary and advisable to take action to alleviate the conditions heretofore stated, and to provide an instrument for the purpose of setting policies and enforcement procedures related to tree planting, maintenance and safety

(d) *Short title.* The short title of this chapter shall be the "tree ordinance," and this chapter shall hereafter be cited if referred to for purposes of amendment or otherwise by said title.

(e) *Intent.* This article 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. Trees, as defined, regulated and protected herein, are declared to be a natural public resource and the City of Manton encourages planting, replacement and protection of trees, as herein set out, in the interest of the health, safety and welfare of present and future citizens of the City of Manton. To attain that end, it shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any tree or woodland as covered by the terms of this part except in accordance with the provisions of this part.

(Ord. No. 2006-01, 10-9-2006)

Sec. 14-93. Authority and power.

(a) *City's right to plant, maintain and remove trees on public property.* The city shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city superintendent or his/her designated representative shall have the authority to remove any vegetation of any kind from any city-owned land, greenways or access corridors for greenways. In the event that there is a conflict, the ultimate determination is to be made by the city commission. No trees, brush, vines, shrubs and/or ground cover

are to be removed by anyone, including adjacent land owners or agents of any land owner, from any city-owned land, greenways or access corridors for greenways without permission of the City of Manton.

(b) *City's right to plant, maintain and remove trees on private property.* The city shall have the right to cause the removal of any dead, diseased or structurally damaged trees on private property when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

The city shall have the authority and jurisdiction: to enter onto private property whereon there is located a tree, shrub, or plant that is suspected to be a public nuisance as defined herein and may direct the necessary treatment or removal; to alleviate interference with the provision of essential services; and to preserve the aesthetics of public places.

The city shall have the right to prune 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 any traffic control device or sign or sight triangle at intersections.

(c) *Designate city department responsible for trees.* The city tree program shall be administered by the department of public works. The department shall be supported in its program by other departments and organizations within the City of Manton.

(d) *Duty to allocate funds.* Allocation of funds will be made to the department of public works, and expenditures of funds will be by the department of public works.

The city will also investigate available grants, loans or contributions from other governmental agencies, public or private corporations or individuals.

(e) *Duty to advise.* The aesthetics and appropriateness of all tree plantings and landscape plans within public right-of-way/tree easement projects shall be under the jurisdiction of the city superintendent, who will make recommendations and advise the city commission on major projects.

Landmark tree nominations for adoption by the city commission; landmark tree removals. The city superintendent and parks and recreation committee shall study the problems and determine the needs of the city and advise the commission in connection with its tree planting programs, as developed. Notwithstanding any other revision of this article, or related city ordinances, the parks and recreation committee shall recommend, but have no final authority over, trimming or removal of trees, plants, or shrubbery which by obstructing the view of any driver constitutes a traffic hazard under the motor vehicle code.

(f) *Duty to issue permits.* The city superintendent shall have the authority to review all requests for permits for any planting, removal, priming, and/or trimming or cutting of trees in any public area, with the exception of an historic or protected tree. He or she shall also have the authority to grant or deny and to attach reasonable conditions to all permits with the exception of those specifically exempted herein.

(g) *Duty to set permit conditions.* The city superintendent shall have the authority to affix reasonable conditions to the granting of a shade tree work permit.

(h) *Duty to develop a management plan.* The city superintendent shall prepare and administer guidelines for the spacing of city-owned trees. These guidelines will cover spacing between street trees, the distance street trees may be planted from curbs, curb lines and sidewalks, the distance street trees may be planted from any street corner, the location of street trees relative to overhead and underground water and sewer lines, transmission lines, telephone poles or other utilities, and any other areas involving the spacing of street trees, park trees or other city-owned trees.

(i) *Duty to develop and maintain a tree list.* The city superintendent shall recommend to the proper authorities, the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks as is designated. This includes, but is not

limited to, advice as to the kinds and species of **trees** unsuitable or undesirable for planting, such as noxious **trees**, and advising as to the areas and conditions under which suitable and desirable **trees** should be planted.

(j) *Duty to amend management plan.* The city superintendent shall have the responsibility of regularly updating a master systematized **tree** management and planting program.

(k) *Duty to supervise.* The city superintendent shall have the authority and it shall be his or her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this article, and to supervise employees of the department of public works.

(l) *Duty to carry out management activities.* The department of public works shall be responsible for pruning **trees** and shrubs on city property so that no **tree** or shrub shall obstruct or interfere with the free passage of pedestrians on any sidewalk or the free passage of vehicles on the paved portion of any street or the views of traffic signs or signals or with the extension or maintenance of wires for street lights.

The city superintendent shall also be responsible for the planting, maintenance and removal of **trees** on city-owned property and for the maintenance of **trees** around utility lines. He or she shall select, situate and maintain public **trees** to minimize hazard, nuisance, pavement damage, water use and maintenance costs.

The department of public works is hereby authorized and empowered to administer a city street **tree** treatment policy and program ("program") in order to assist the owners of property adjoining or abutting upon any street, highway, lane or alley in the city, in the maintenance of the health of **trees** that are located in or along any such street, highway, lane or alley in the city.

The city superintendent shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of **trees** on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

Assist any person, having a permit to move a building, structure or oversized load upon a public right-of-way, is selecting a route which will cause minimal potential damage to **trees**.

(m) *Duty to inspect for and control insect and disease problems.* The removal of **trees** deemed by the city superintendent to be diseased, dying, or dead. The city superintendent may inspect any **trees**, shrubs, vines, hedges, plants, logs, or branches existing or growing upon any property within the city. The city superintendent shall conduct or contract surveys to determine if any destructive or communicable disease, or other pestilence exists which may be detrimental to or endanger the good health and well being of **trees** or other plant life in the city.

(n) *Duty to manage risk and control nuisances.* The city superintendent or the city ordinance control officer is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the city superintendent to be an immediate threat to any person or property, such as:

The removal of any **tree** by a public utility when such **tree** has the reasonable potential of endangering the facilities operated by the utility.

Removal of dead or living **trees** or limbs that are determined by the city superintendent to be a hazard to public safety and property.

Removal of **trees** or limbs that have actually fallen across street, sidewalk, or other city property.

(o) *Duty to approve work plans.* The city superintendent shall prepare an annual **tree** pruning and maintenance schedule for **trees** in public places.

(p) *Duty to review requests.* The department of public works shall review and thereafter approve or disapprove the street **tree** treatment assistance request.

Landscaping for any new development within the city associated with a land use application which requires a landscape plan shall be reviewed by the city superintendent, and a recommendation made to the appropriate committee and/or city commission.

(q) *Duty to educate citizens and to promote tree care.* It is the duty and responsibility of all city officials and employees to promote the conservation of healthy trees and encourage the recycling of tree debris. To foster community support for the City of Manton community forest program. Encourage and foster the planting of trees and other vegetation for the beautification of the city; and direct interested persons to information concerning proper selection and care of trees.

(r) *Duty to set policy.* The department of public works shall be authorized to promulgate such rules and regulations it may deem necessary for the administration of the program authorized herein.

Comprehensive plan goals and policies related to trees;

Within two years of the passage of this ordinance, develop and periodically review and revise, as necessary, the forestry policies and specifications.

(s) *Duty to hear appeals.* The city commission shall hear and decide appeals from the standards of this article or an appeal of a decision of the city superintendent. It may approve, modify, or deny the requested adjustment, based upon protection of public interest, preservation of the intent of this article, and possible unreasonable and unnecessary hardships involved in the case.

The city commission shall serve as appeal board for the administration of this chapter.

The city commission shall investigate complaints from any person concerning the planting, maintenance, protection and removal of any tree.

(t) *Duty to enforce.* The city superintendent or ordinance enforcement officer shall cause the provision of this article to be enforced. In his or her absence these duties shall be the responsibility of a qualified alternate designated by the City of Manton.

The city ordinance officer shall give notice and issue citations to owners or possessors of private property where such violations have occurred or are occurring.

Enforce or cause the enforcement of the provisions of this section working in conjunction with the city superintendent or his or her authorized representative.

To facilitate the planting and maintenance of trees in new subdivisions, developments, streets and public areas, the city superintendent shall advise and cooperate with the landscape supervisor in carrying out the provisions of this chapter.

(u) *Exemption for horticultural and agricultural use.* All plant or tree nurseries or botanical gardens shall be exempt from the terms and provisions of this article in relation to those trees which are being grown for relocation and continued growth in the ordinary course of business, or for some public purpose.

All orchards of trees in active commercial operation shall be exempt from the terms and provisions of this ordinance for bona fide agricultural purposes only.

Nothing included in the provisions of this article is intended to prohibit agriculture, silviculture, horticulture or nursery operations within the city.

(v) *Exemption for treatment of disease or infestation.* Upon the advice of the appropriate government agency in accordance with commonly accepted forestry practices and a finding of a tree disease or infestation, the city superintendent or ordinance enforcement officer may authorize the removal of trees to prevent the transmission of disease or infestation, to prevent the danger of those trees falling, or to prevent the potential injury to life and property.

(Ord. No. 2006-01, 10-9-2006)

Sec. 14-94. Licensing.

(a) *License required.* 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 of Manton without first producing evidence of certification/license before the City of Manton.

General tree license shall authorize the licensee to plant, cut, trim, prune, and remove vegetation of any size.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license.

(b) *Exemption from license requirement.* Provided, however, that no license shall be required on any public service company including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors.

The employees of a tree contractor licensed hereunder, shall not be required to obtain a tree contractor's license so long as they are in fact employees of a tree contractor so licensed.

No license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.

(c) *License requirement: Insurance coverage.* Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury and \$1,000,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Any applicant for a tree service business license shall provide at the time of application a certificate of insurance showing insurance coverage for general liability, automobile liability, worker's compensation, and other coverages required by law in minimum amounts set by the tree board resolution.

Applications for a new tree service contractor's license or renewal must be accompanied by proof that the licensee has current workers compensation insurance coverage as required by Michigan Code, if applicable.

The certificate of insurance shall name the city and its officials and employees as additional insured or work on public lands.

(d) *License fee.* The license fee shall be \$50.00 annually in advance.

(e) *Work practices.* All licensees shall be responsible for the work performed under the provisions of this chapter and shall comply with the professional standards set forth by the City of Manton for its employees and subcontractors. AH licensees shall comply with the City of Manton's Policies and Specifications for planting, pruning, trimming and removal.

(f) *Work practices: Safety.* All power equipment used by a licensee shall include reasonable safety devices to protect employees and other persons. Provide safety measures and equipment to protect workers and the public.

(g) *Work practices: Display license.* The licensee shall display the license to any of its customers or city officials upon demand.

(h) *Work practices: Obey rules.* All licensees shall obey all orders or notices issued under the authority of the city commission, or the city superintendent.

At least 48 hours prior to engaging in any work (except in the case of a hazard), a licensee shall apply for a permit to do any work on any tree or shrub which is located in any public area. The permit application shall be filed with the city clerk on the city clerk's designee on a form provided by the city.

(i) *Work practices: Vehicles.* The name of the company shall appear on all vehicles used by the company for work permitted by this article. The name shall be in letters at least two inches in height in a color that contrasts with the background.

(j) *License suspension or revocation.* The license holder shall maintain with the city clerk current mailing address. Any order, notice, summons and complaint or other departmental communication, whether delivered by personal service or by certified, registered, or first class mail sent to that address, shall constitute service.

When a licensee commits any acts or omissions enumerated above and the city superintendent deems that the license shall be suspended or revoked, the action shall be as follows:

(1) *Notification.* The city superintendent shall send written notice, containing the grounds for the action, the effective date of the action, that the licensee can request a hearing, and that if a hearing is requested the effective date of the action is stayed, to the license holder, by certified mail or by personal service, at least seven days prior to suspension or revocation.

Upon receipt of the notice, the license holder may request a hearing to show cause why the license should not be suspended or revoked. This request shall be in writing to the department within seven days after receipt of the notice.

If a hearing is requested by the license holder, the city clerk or a designee of the city clerk shall notify the license holder of the time, date and place of the hearing. Suspension or revocation of the license shall be stayed until after the hearing.

The license holder and other interested parties may be in attendance at the hearing. Upon completion of the hearing, the city clerk shall take all evidence available as a result of the investigation, all evidence presented at the hearing, and if the hearing was held by a designee, the recommendation of the designee under advisement, and shall have written notice of the findings and ruling to the license holder by certified mail or personal service.

(k) *License expiration and renewal.* The tree service contractor's license and tree service certification shall be valid for the remainder of the calendar year in which it was issued and will expire on December 31 of each year.

Tree service contractor's licenses may be renewed by filing a renewal application with the city clerk, including the annual license fee and proof of insurance as required herein.

Tree service certification may be renewed by filing a renewal application with the city clerk, provided, that if the holder of a tree service certification fails to renew his or her certification within 12 consecutive months of its expiration, then the applicant shall not be eligible for renewal and shall be required to file a new application for certification as required.

(l) *License is non-transferable.* Any license issued hereunder shall not be transferable.

(m) *Landscaping.* In new subdivisions or when the development of commercial property occurs, the city 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.

Street trees shall be required in each proposed subdivision or re-subdivision and provisions in accordance therewith shall be made for one street tree per subdivision lot. The city shall select, space and plant the street trees and the developer shall pay to the city \$50.00 per lot for street trees prior to the issuance of any building permit.

Two deciduous trees shall be required for each 100 linear feet of building perimeter of nonresidential uses or each multi-family unit. A minimum of one tree per building shall be required.

The planning board shall consider a landscape plan as part of its review of any subdivision plat, development plan or site plan application.

(Ord. No. 2006-01, 10-9-2006)

Sec. 14-95. Tree planting, maintenance, and removal.

(a) *Tree planting, maintenance, and removal.* It is the public policy of the City of Manton to maintain existing trees and to provide for and encourage the planting of new trees within Manton to the greatest extent possible,

A property owner not desiring the planting of a tree on city land abutting his property must object thereto in writing at least seven days prior to the stated meeting of the city commission and the objection of the property owner shall be honored by the said commission.

Private citizens desiring to plant trees (to be deemed to include shrubs and bushes) in the public right-of-way abutting their property shall comply with the terms and condition of the written policy, and such trees shall, once planted, be strictly subject to management by the city to include pruning and removal as necessary to protect the public health.

It shall be the policy of the City of Manton to replace trees on public property of public right-of-way that have died or that have been removed because of diseased or poor health.

(b) *Official tree list.* Copies of the lists of desirable and undesirable trees shall be maintained at the department of public works and shall be made available to the public.

The department of public works shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

(c) *Prohibit topping.* The practice of tree topping is strongly discouraged on all public trees or street trees and is strongly discouraged as a tree care practice for private trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

No person or firm engaged in the business or occupation of pruning, treating or removing trees shall engage in the practice of tree topping within the city except as specially authorized by the city superintendent, or in cases where a tree has been severely damaged by storms or other causes or when a tree creates a dangerous condition relating to utility wires or other obstructions.

(d) *Order required for a notice to take action.* The city ordinance officer shall cause ten days written notice to be given by all to the owner of the property in front of which a shade tree is planted, to remove a dead, dying, damaged, or dangerous tree, or one which is growing in or extending over the right-of-way.

The city superintendent and ordinance control officer shall have the authority and it shall be his or her duty to order the trimming, preservation or removal of trees or plants upon private property when he or she shall find such action necessary to public safety to prevent the spread of disease or insects to public trees and places.

Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the ordinance control officer or city superintendent shall order such person or persons, within ten days after receipt of written notice, to so prime such trees.

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, hedges or shrubbery, or threatens to spread disease or insect infestations, the city superintendent shall at once cause written

notice to be served upon the owner of the property of his/her agent upon which such diseased or infested **trees**, hedge, or shrub is situated

(e) *Service of a notice to take action.* The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

Whenever written notice to an owner of property is required to be given by these regulations such notice shall be addressed to the owner at the property address of the property in front of which the shade **tree** or shrubs, which are the subject of the notice, are situated, and such notice shall be deposited, postage prepaid, in the United States mails.

(f) *Contents of a notice to take action.* Such notice shall describe the kind of **tree**, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance.

Such notice shall describe by legal description or by street the premises.

Such notice shall state the actions that the property owner may undertake to abate the nuisance.

Proper disposal procedures of wood, bark and debris from said nuisance shall be detailed in said notice. These disposal procedures shall be followed within the time provided in the notice.

The notice of violation shall state the specific violation and indicate whether immediate enforcement will be sought or if 30 days will be allowed to correct and remove the violation.

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.

(g) *Failure to comply with a notice to take action.* If the owner of the property to whom an order has been issued fails or refuses to take remedial action in accordance with and within the time specified in an order, the city may cause the remedial action so ordered to be performed at the expense of the owner.

If the owner fails to comply with such notice, the city superintendent shall cause such **trees** or shrubs to be pruned, treated or removed as necessary to remove the obstruction or threat of communicable disease or insect infestation.

When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the city to remove such **trees** and bill or assess the property owner (at their option) for the cost of services rendered.

(h) *Nuisance or hazard.* The department of public works may remove or cause or order 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, or is affected with any injurious fungus, insect, or other pest.

The following are hereby declared public nuisances under this article:

Any otherwise healthy **tree**, shrub, or other plant, whether located on city-owned property or on private property which dangerously obstructs the view in the "visibility triangle" as such may be determined by the city street administrator pursuant to ordinance.

Any public nuisance under this article which is located on city-owned property shall be pruned, removed, or otherwise treated by the city superintendent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery;

Any **tree** which is dead or not maintained and trimmed and is endangering the security or usefulness of any street, utility line above or underground, sewer or public place may be declared a public nuisance by the city.

Any tree or shrub which obstructs the free passage of pedestrian or vehicular traffic of which obstructs a street light or traffic control device may be declared a nuisance.

(i) *Dead or dying tree.* Any trees or parts thereof in a dead or dying condition located anywhere in the city may be declared a public nuisance.

Dead and dying street or public trees that pose a safety or health risk to the public or to other trees shall be removed in a timely manner. The city shall make a risk determination of public and street trees and will initiate removal as appropriate.

The following are hereby declared public nuisances under this article:

Any dead tree or shrub located on city owned property, including the right-of-way.

(j) *Hazardous trees.* Any otherwise healthy tree, shrub, or other plant, whether located on city-owned property or on private property which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public.

The city may remove or cause or order 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, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this article.

Any tree, shrub, or hedge, or part thereof, growing upon public property or upon private property but overhanging or interfering with the use of any public walk, street or highway, park or public place within the city, which in the opinion of the city or its representative, endangers the life, health, safety or property of the public, shall be declared a public nuisance.

Any tree or shrub which, by reason of location or condition, constitutes an imminent danger to the health, safety, or welfare of the general public.

When the city superintendent or ordinance enforcement officer determines that a tree or limb presents a clear and present danger to the safety or welfare of the community it shall be removed immediately. If the tree is on private premises, the owner will be billed for the costs of removal.

Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of public.

(k) *Disease or pest infested trees.* Any otherwise healthy tree, shrub, or other plant, whether located on city-owned property or on private property which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant.

Any tree or part thereof which is afflicted with any dangerous and infectious insect infestation or plant disease shall be cured or destroyed.

(l) *Adjacent landowner responsibility.* Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches 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 13 feet above street surface or eight feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public.

(m) *Adjacent landowner's limited responsibility.* It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection.

Property owners may trim trees growing in front of his or her property provided:

1. He or she has obtained a permit; and
2. The tree is six inches or less in caliper and 15 feet or less in height.

This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and the location of said trees in accordance with the guidelines for planting and spacing developed by the department of public works. The city superintendent may reserve the right to approve any plantings that take place in the right-of-way areas.

(n) *Protection from disease and pestilence.* Such regulations may include, but shall not be limited to a listing of all such diseases which threaten to injure or destroy shade trees in Manton.

(o) *Protection from disease and pestilence spread by infested wood.* No person shall store or permit the accumulation of any elm wood in the City of Manton. No person shall store any tree or part thereof declared to harbor or contain any pest infestation, unless the wood is debarked prior to storage, and all bark is disposed of at a licensed landfill.

(p) *Tree protection.* Subdivision and development plans shall be designed to preserve natural vegetation areas as much as possible. Streets, parcels, structures and parking areas shall be laid out to minimize the destruction of wooded areas or outstanding tree specimens. Developers of land are encouraged to designate wooded areas as park reserves.

(q) *Abuse or mutilation of public trees.* Snow will not be plowed, blown, shoveled from rooftops, or piled in a manner that damages trees. No trees on land owned or maintained by the city shall be pruned in a manner that impairs the health of the tree.

No person shall, without a written permit from the City of Manton, whitewash, paint or in any way discolor the stem base, bole or root of any tree or shrub upon any public property in the city.

In addition no person shall cut down, lop, take or otherwise destroy any ornamental or shade tree, shrub, flowers, bulb or fruit standing or growing on any private or public ground or any street, side walk, park sidewalk, promenade or park, or parkway in the city.

(r) *Protection from posting and wire.* It shall be unlawful for any person, firm, or public utility to attach any sign, advertisement or notice to any street tree or park tree.

Fasten any rope, wire, electric attachment, sign or other devices to a tree or to any guard about such tree, with the exception of holiday or ornamental lighting.

Attach a potentially harmful device or structure (i.e. tree houses) to or on public trees unless otherwise authorized by the city superintendent or his or her designated representative, or to attach or place any rope, wire (or other than to support a young or broken tree), sign, poster, advertisement or notice on any tree growing in a public place.

(s) *Protection from fire.* No person shall allow fire or heat to come in contact with any tree on land owned or maintained by the city or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

(t) *Protection from utilities.* Each public utility company shall exercise reasonable diligence in the maintenance of its plant construction so as to avoid damage to trees.

Cause or permit any wire charged with electricity to come in contact with any tree or plant.

All wires belonging to public utilities, city or individual, shall be securely fastened and maintained so as to safeguard the trees against any damage therefrom. Inspection should be made periodically to prevent damage to trees, or adjustments made whenever requested by the public works department.

It shall be unlawful for any person, firm or public utility to cut, carve, scrape or girdle, burn, char, or otherwise deface any street tree, park tree or oilier shrub or tree in any public area or public way, except where a public utility, with easement right, needs to remove branches interfering with overhead lines.

(u) *Protection from vehicles and equipment.* Steam shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public highway or park.

No person shall, without the written permission of the city or its designated agent, place any booth, stand, or other structure, or station any wagon, car, or other vehicle in any public park.

All planting areas that are adjacent to parking or vehicular circulation areas shall be protected from vehicular intrusion or damage from excessive vehicular lubricants or fuels.

No person, firm or corporation shall strip, excavate or otherwise remove top soil except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

(v) *Protection from animals.* Pets will not be secured to trees. Dogs will not be tied where their digging damages tree roots.

No person shall fasten an animal to a tree or shrub located on city property or cause an animal to stand so that it can damage such tree or shrub.

(w) *Mutilation of public trees.* Unless specifically authorized by the city, no person shall intentionally damage, cut, carve, transplant, or remove any city tree, shrub, flowers, or any parts of such thereof.

It shall be unlawful for any person, firm or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of said tree or shrub growing on public property.

It shall be unlawful for any person, firm, or city employee to abuse, destroy or mutilate any tree, plant or shrub on public property or any public place or right-of-way without prior authorization from the city superintendent.

(x) *Private trees.* The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the property owner/s. If not paid within 90 days, such amount will be charged to the owners' property taxes.

Nothing contained herein shall prevent the removal of any trees or portions of trees on private property, and this article is not intended to restrict the removal of trees by owners of private trees

All dead trees on private property shall be removed by the owner of such property.

All trees planted by any property owner on his or her property shall be planted at least four feet away from any inner sidewalk line adjacent to the property to protect the sidewalk from disturbance.

All owners of growing trees shall care for, trim and prune the same when necessary for the preservation of a tree for public safety.

The owner of any tree shall not permit the roots thereof to disturb, lift, or interfere in any way with any wall, foundation, driveway, pipeline, or other valuable improvement on the property of any other person. The owner of said tree shall cause such roots to be removed and shall take such other action which is necessary to prevent further damage to the improvements at their expense.

If the tree trunk emerges from the ground on the line for the public right-of-way and private property, the cost of removal shall be shared proportionately by the city and the private landowner.

(Ord. No. 2006-01, 10-9-2006)

Sec. 14-96. Permits.

(a) *Permit application for work on trees.* 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 clerk. The person receiving the permit shall abide by the standards set forth in this article.

No person shall plant on city-owned property, or treat, prune, remove, or otherwise disturb any tree, shrub, or other plant located on city-owned property, except that this provision shall not be construed to prohibit owners of property adjacent to city-owned property from watering or fertilizing without a permit any tree, shrub, or other plants located on such city-owned property.

No person except the department of public works, its agent, or a contractor hired by the city may perform any of the following acts (planting, maintenance, and removal of public trees and shrubs or other woody vegetation) without first obtaining from the city a permit for which no fee shall be charged.

(b) *Permit application for work near trees.* No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius often ten feet from any public tree without first obtaining a written permit from the city.

The director of the department of public works shall certify all city permits for construction, installation, altering, moving, or razing of all buildings, utilities, sidewalks, sewers or other operations where trees or shrubs, or parts thereof are involved.

No person shall, without first obtaining a permit from the city superintendent, locate, place or maintain any pole or post in such a manner as to interfere with any tree or shrubs growing in any street or public place.

(c) *Standards for issuance of permits.* Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

The applicant certifies that he or she has read and understands those provisions of this ordinance and of the city forestry policies and specifications which are pertinent to the work for which the permit is sought.

(d) *Detailed criteria for issuance of permits.* The permit shall be granted if there is a finding that the removal and destruction will not impair the growth and development of remaining trees on the property of the applicant or adjacent properties and would not cause erosion of soil, impair existing drainage, increase the dust, decrease the fertility of the soil, or lessen property values in the neighborhood or impair the aesthetic values of the area.

If the presence of the tree would cause hardship or endanger the public or the person or the property of the owner or of an adjoining owner.

If the tree substantially interferes with a permitted use of the property; If the tree is diseased or threatens the health of other trees.

(e) *Permit application fee.* Tree permits shall be without charge to the applicant.

As a condition to obtain a permit for the removal of any city tree, the city manager may require that the permit holder pay fee of not more than \$100.00 for each tree to be removed, for the city to plant a designated species of tree(s) as nearly equivalent in size and value as reasonably possible in place of the one(s) removed.

(f) *Response to application for a permit.* Application for permits must be made at the office of the city clerk not less than 48 hours in advance of the time the work is to be done.

Within seven days of receipt of a permit application, the city clerk shall issue a permit to perform (within 30 days of the day of issuance) any of the acts specified in this section for which a permit is required.

The city superintendent shall render an opinion to grant or deny the permit within seven days after reviewing the site. He or she shall advise the applicant, the mayor, and the city council of the opinion.

(g) *Exemptions or special requirements for city or utility workers.* These license provisions shall not apply to public officials of the City of Manton, state or federal governments engaged in the performance of their official duties or anyone working on his own premises, or to bona fide yardmen working under the direct supervision of the person who owns the property being serviced, or employees of public utilities engaged in securing clearance along utility easements for the facilities of such utilities.

All city departments shall be exempt from those permit provisions and shall be subject only to notification of the city superintendent of tree work to be performed.

The city and public utility companies are not required to obtain individual job permits to perform necessary tree maintenance or excavation affecting city trees but may instead obtain a master permit from the city manager. No master permit shall be issuance. The permit authorizing such trimming or other operations affecting a city tree shall be limited to the minimum trimming or other operations affecting a city tree that will allow installation and maintenance of public utility company lines. The city superintendent and the public utility company shall jointly determine the extent of trimming or other operations affecting a city tree that will be necessary to facilitate the functions of the public utility company; however, the city superintendent shall have the ultimate authority as to the final determination.

(h) *Other permit exceptions.* In the event that any protected, historic or specimen tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization for removal may be given by the city superintendent, and such protected, historic or specimen tree may then be removed without obtaining a written permit as herein required.

A property owner or a member of his or her immediate family who trims, or prunes any tree or shrub within the public street which abuts his or her property shall not be required to obtain a permit

(i) *Planting permit application.* Any person desiring to plant a tree upon any public street or public place must first obtain a permit from the city clerk. Any permit shall be granted to a date certain and shall include consideration of appropriateness of species, location, size, and public safety.

(j) *Planting permit application contents.* The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting, and such other information as the city superintendent shall find reasonable necessary to a fair determination of whether a permit should be issued.

(k) *Tree becomes public property.* Any tree planted pursuant to this section shall become the property of the city.

(l) *Improper planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the city to remove or cause removal of the same, and the exact cost thereof shall be billed or assessed to the owner as provided by law in the case of assessments.

(m) *Permit for removal, replanting and replacement.* No permit shall be required to remove any tree or part thereof which, by reason of damage by fire, windstorm or other natural calamity, poses a threat to the public health or safety or which obstructs any public way.

No person shall remove, or substantially alter the habit of, any tree located within a public right-of-way, or in a park, without first obtaining a permit from the city superintendent.

Any person may make a request to the city superintendent for a tree to be removed. The city superintendent's decision to approve removal of a tree shall be based on its detriment to the community, due to disease, insect damage or other damage which creates a hazard to the public health, safety and welfare.

Any person performing maintenance work near any franchised public utility line in the city shall, in addition to obtaining a permit for the work to be performed, also contact the utility or utilities involved for any permits or operational procedures that are to be followed in working near said utility lines.

(n) *Removal and replacement application contents.* The application for a permit pursuant to this section shall state the purpose of the proposed alteration or removal, the size, species and location of the tree(s) proposed to be removed or substantially altered in habit, and the name of the person who will alter or remove the tree. Any person who obtains such a permit shall replace a removed tree with the approval species within twelve (12) months after such removal.

That said tree or trees for which removal is requested has an adverse economic impact upon the private property; or

Said tree or trees present a practical difficulty, other than such adverse economic impact, creating substantial hardship for the affected property owner.

(o) *Permit for replanting.* The city may require the planting of the same or agreed-upon alternate species of trees as are nearly comparable in type and size as practical to the trees to be removed, when the individual character of the tree(s) or the ecological setting requires special consideration, as a condition for the issuance of a permit for the tree removal. The location for planting of the replacement trees shall be agreed upon between the applicant and the city prior to issuance of a permit for removal.

Such replacement shall meet the standards size, species, and placement as provided for in a permit issued by the city.

(p) *Annual permit or none required for utilities.* Public utility companies shall notify the city superintendent prior to pruning any tree located on city-owned property for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural standards.

If the work is to be done by a public utility company pursuant to its regular operations, application shall be made by the public utility company or its authorized agent and may be for an annual permit

The mayor and commission may grant to public utility companies a blanket permit for tree pruning for line clearance and for installation and the maintenance of subsurface and aboveground plant construction if there is interference with or endangerment to street trees.

(q) *Utilities required to obtain permit.* No person, firm or corporation shall string any wire or wires or lay pipe for the transmission of gasses through a public park without the written permission of the city superintendent or its designated agent.

No person, firm, or corporation shall, without written permission of the city superintendent or its designated agent, attach or fasten any wire, insulator, or other device for holding any wire, to any tree or shrub in any public highway or park.

No electric light, telephone or telegraph company shall trim any tree or shrub located on city property without a permit from the city.

(r) *Utility activities regulated by permit.* Every person, firm or corporation having or maintaining any electric, telephone, telegraph or other wires running through a public highway or park, shall securely fasten and maintain such wires in such a manner as will safeguard the trees and shrubs against any damage there from and shall make periodical adjustments whenever necessary to prevent damage to trees and shrubs growing in any public highway or park.

Public utility companies shall notify the city superintendent not less than two business days in advance of commencement of pruning on public lands and public rights-of-way for purposes of routine clearing of electric, telephone, cable television and similar overhead rights-of-way.

(s) *Enforcement.* The city may also institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this chapter in any court of competent jurisdiction.

The article enforcement officer is responsible for enforcing the provisions of this article.

(t) *Enforcing agent.* It shall be the responsibility of the ordinance enforcement officer and the department of public works to enforce this article. The department of public works or its designee shall have the authority to revoke, suspend, or void any clearing, clearing and grubbing, grading, development or building permit or to withhold issuance of a certificate of occupancy, and shall have the authority to suspend all work on a site or any portion thereof, where tree removal or damage occurs in violation of this article or the provisions of the approved tree protection plan for the site.

(u) *Interference.* No person shall unreasonably hinder, prevent, delay, or interfere with either the ordinance enforcement officer, the city superintendent, city official, or any of their agents while engaged in the execution or enforcement of this article.

(v) *Violations.* Any person who shall injure, damage, or destroy any tree, shrub, vine, hedge, or other plant situated upon the public right-of-way of any street, alley, sidewalk, or other public place within the city shall promptly notify the city superintendent of such occurrence and shall, within such reasonable time as specified by the city superintendent in an order, repair or replace the damaged vegetation to the satisfaction of the city superintendent.

It is unlawful, prohibited and a misdemeanor for any person to violate the provisions in this article, including failure to comply with any notice and decision of the city commission following appeal. The city must be compensated for damage to or the loss of any tree as determined in accordance with this article.

If, as the result of the violation of any provision of this article, 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, or the appraised dollar value of such tree, shrub, or other plant, shall be born by the party in violation.

Violation of this article is a misdemeanor.

(w) *Separate violations.* Each tree affected by noncompliance with this article shall constitute a separate violation.

Each day a violation is committed or permitted to continue is a separate violation.

The owner of any property where any violation exists, and any builder, contractor, or agent who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

(x) *Assessment of claim.* In the event that a nuisance is not abated by the date specified in the notice, the ordinance enforcement officer 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.

The amount assessed against the real estate shall be a lien from the time of the filing of the certificate by the city commissioners, and, if not paid within the time designated in the notice, a claim may be filed and collected by the city in the same manner as municipal claims are filed and collected.

If payment for materials and labor in the planting of a tree or in the removal of a tree or part thereof is not made on demand to the collector of taxes, such cost shall become and be a lien upon said property, and shall be included in the next tax bill rendered the

owner or owners thereof and shall be collected in the same manner as other taxes against said property.

(y) *Appeals.* Any applicant for or holder of an initial or subsequent land disturbance permit who is aggrieved by any decision of the department of public works relating to the application of this article to said permit shall have all rights of appeal as provided under the development regulations, and shall file such request for relief as a waiver of regulations for consideration by the mayor and commission.

The city commission shall have the right to review the conduct, acts, and decisions of the department of public works and the ordinance enforcement officer. Any person may appeal from any ruling or order of the **tree** board to the city commission who may hear the matter and make final decisions.

(z) *Request for appeal: Introductory statements.* Where practical difficulties or unnecessary hardships inconsistent with the purposes of this part result from its literal interpretation or enforcement, the city commission may waive, modify or delay the enforcement of these provisions, upon written request for the developer or the property owner.

The request shall be in writing and filed with the administrative office and shall contain any and all facts which are offered in support of said request.

(aa) *Requests for appeal: Contents.* A statement of the action(s) being appealed together with any material facts in support of his or her position;

The signature of all parties and date.

A description and justification of the proposed activity.

A description of the **tree(s)** to be affected including approximate size, location and specie(s); specific reasons for appeal.

A statement outlining the interest of each aggrieved party.

(bb) *Appeal of tree removal.* In the event that a private **tree** owner is motivated to remove a **tree** under this chapter, such owner shall have the right to appeal the notice by filing a written request with the city clerk within ten days of the date the notice is received. The city clerk shall present the appeal to the city commission at the first regular meeting after the appeal is filed and the city commission may affirm or modify the order.

(cc) *Right to enter private property.* The city superintendent 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.

The city may, after notice to the property owner or resident of record and with consent of the property owner or resident, enter upon private property at all reasonable hours for the purpose of removing such specimens as are required for purposes of analysis to determine whether plants are infested or diseased.

The city superintendent or his or her designee has authority to enter onto private property for the purpose of inspecting a public **tree** when the **tree** cannot be adequately inspected from public property, or for the purpose of inspecting a private **tree** believed to be a nuisance.

(dd) *Emergencies.* Work may proceed without notice when exigent circumstances exist and work is required to prevent or mitigate property damage or public safety hazard, or disruption of essential city services.

A permit shall not be required by government personnel or agencies who remove a **tree** in the performance of their official duties during an emergency declared by the mayor or city commission.

(Ord. No. 2006-01, 10-9-2006)