

City of Watervliet, MI – Tree Ordinance

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ARTICLE II. TREES AND SHRUBS

Sec. 58-31. Definitions.

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

Department means the city department of public works.

Director means director of the department.

Park means all public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

Prohibited species means any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*) and box elder (*Acer Negundo*).

Public utility means any person, owning or operating any pole, line pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service, telegraph service, or television service.

Street means all of the land lying between property lines on either side of all streets, highways and boulevards in the city.

Tree means trees, shrubs, bushes and all other woody vegetation.

(Comp. Ords. 1969, § 35.031)

Cross references: Definitions generally, § 1-2.

Sec. 58-32. Application of article provisions.

The provisions of this article, except as otherwise specifically stated in this article, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Comp. Ords. 1969, § 35.031(G))

Sec. 58-33. Enforcing officer of article.

The director shall be charged with the duty of enforcing the provisions of this article under the supervision of the city commission.

(Comp. Ords. 1969, § 35.032)

Sec. 58-34. Rules and regulations.

The director, subject to the approval of the city commission, shall make such rules and regulations supplementary to this article and not in conflict herewith, as he may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code shall continue in effect. No person shall fail to obey any rule or regulation effective under this article.

(Comp. Ords. 1969, § 35.049)

Sec. 58-35. Permits for tree planting, care and removal.

The director shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this article. The owner of land abutting on any street may, upon obtaining prior written permission of the director, prune, spray, plant or remove trees in

that part of the street abutting his land not used for public travel, but no person shall otherwise prune, spray, plant or remove any **tree** in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a **tree**, the director is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such **tree**. Where the requested removal is for the purpose of enabling the abutting owner to construct walls, drives, buildings or other structures for his own private purposes, the director shall require a deposit equal to the replacement value of the **trees**, in an amount to be determined by the director. Sums, so deposited, shall be paid into the city treasurer and shall be used, first, for the planting of a **tree** in front of the lot from which such **tree** was removed if such replacement is considered by the director advisable or desirable; otherwise, to be used for planting a **tree** on a street or public place where needed. (Comp. Ords. 1969, § 35.033)

Sec. 58-36. Public tree removal.

The department shall have the right to plant, trim, spray, preserve, and remove **trees**, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety or to preserve the symmetry and beauty of such public grounds. The director may remove or cause or order to be removed, any **tree** or part thereof which is in an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any **tree**, plant or shrub, solely for the purpose of constructing any public work, the director shall, if practicable, replace the same at public expense, at some nearby location by planting another **tree**, plant or shrub, not necessarily of the same type. (Comp. Ords. 1969, § 35.034)

Sec. 58-37. Spacing of shade trees.

Future plantings of shade and ornamental **trees** in the streets, parks and public places of the city may be done in accordance with such rules and regulations as may be established by the city commission in so far as such rules and regulations do not conflict with any other provisions of this article. No future planting of shade and ornamental **trees** or shrubs in the highways, parks and public places by owners or anyone employed by them shall be permitted without the approval of the director of public works and in compliance with the following rules as to spacing: Elm **trees** shall be spaced not less than 40 feet, oak **trees** not less than 35 feet, and other shade and ornamental **trees** not less than 30 feet. Any owner of a single lot may in order to provide a shade or ornamental **tree** in front of his lot, secure special permission from the department of public works to plant a shade or ornamental **tree** within a less distance from an existing **tree** than the spacing above mentioned, but shall in no case make special planting within 20 feet of any existing shade or ornamental **tree** located in the street or other public place. No **trees** shall be planted in parkways between the curb and sidewalk less than two feet six inches from the curb and as near midway between the curb and sidewalk as possible. No **tree** shall be planted nearer to the intersection of any streets than 15 feet from the corner of such intersection. (Comp. Ords. 1969, § 35.035)

Sec. 58-38. Tree protection.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten feet of any tree, or permit any fire, or the heat thereof, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor except by special written permit from the director, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of any tree, shall after notice thereof by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.

(Comp. Ords. 1969, § 35.036)

Sec. 58-39. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the superintendent. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree. All persons desiring to make such excavation or construction shall deposit with the city a sum sufficient to cover the cost of inspection and any damage which may result therefrom as determined by the director.

(Comp. Ords. 1969, § 35.037)

Sec. 58-40. Covering surface near trees.

No person shall place within the street right-of-way any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location.

(Comp. Ords. 1969, § 35.038)

Sec. 58-41. Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.

(Comp. Ords. 1969, § 35.039)

Sec. 58-42. Private trees; clearance.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of ten feet above the surface of the street or right-of-way. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim 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, such trimming to be confined to the area immediately above the right-of-way.
(Comp. Ords. 1969, § 35.040)

Sec. 58-43. Corner clearance.

All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of 25 feet each way from the intersection of the right-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than three feet above the surface of the roadway, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. **Trees** may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of ten feet above the roadway surface. Any owner of any property failing to trim any **trees**, shrubs or bushes in conformity with this section or section 58-42 shall be notified by the director in the manner provided in section 58-46(b) to do so, and such notice shall require trimming in conformity with this section within ten days after the date of such notice. Upon the expiration of such period, the director may cause the trimming to be done, and the cost thereof may be collected from the owner of such property as a single lot assessment in accordance with the city charter.

(Comp. Ords. 1969, § 35.041)

Sec. 58-44. Dutch elm disease.

Every elm **tree**, regardless of species or variety, infected with the fungus *ceratostomella ulmi*, popularly called Dutch elm disease, shall be cut and burned; if on public property, within ten days after the director shall learn of the condition and, if on private property, within ten days after notice as specified in section 58-46. No person shall possess, sell, give away or transport any elm **tree** afflicted with the fungus *ceratostomella ulmi* nor any wood from, or parts of, any **tree** so afflicted, except that wood, branches and roots of any **tree** so afflicted may be transported to a place for burning if first sprayed thoroughly with a one percent DDT solution in a manner approved by the director.

(Comp. Ords. 1969, § 35.043)

Sec. 58-45. Appeal.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the director requiring the treatment or destruction of any **tree**, he may, within 48 hours, make an appeal to the city commission by communication filed with the city clerk. The city commission shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

(Comp. Ords. 1969, § 35.044)

Sec. 58-46. Private trees.

(a) *Diseases and infestations.* When the superintendent shall discover that any **tree** growing on private property within the city, is afflicted with any dangerous and infectious insect infestation or **tree** disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, in the manner specified in this section of this Code, describing the **tree**, its location and the nature of the infestation or **tree** disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the

spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of **trees** as may be reasonably necessary. Every such notice shall be complied with within ten days after service thereof upon the owner, agent or occupant of the property on which the afflicted **tree** is located, or within such additional time as may be stipulated in such notice.

(b) *Owner's failure to comply with order of director.* In case the owner, agent, and occupant of the property refuse to carry out the order of the director within the time limited, or in case of an appeal, within five days after the commission shall have affirmed such order, the director shall carry out the pruning, spraying or destruction of the **trees** as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within 60 days after the same has been rendered, the director shall report the same to the city commission for collection as a single lot assessment against such property in accordance with the charter. The director may, without serving the above notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause **trees** growing on private property to be sprayed when he deems the same necessary on account of any infestation or disease or threat thereof.

(c) *Inspection.* The director and assistants and employees shall have authority to enter upon private premises for the purpose of examining any **trees**, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any **tree**, shrub, or plant or fruit or injury to the same, if done by the director or under his direction, in accordance with this article.

(Comp. Ords. 1969, §§ 35.042, 35.045, 35.0046)

Sec. 58-47. Lawn extensions.

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, **trees** and shrubbery therein in conformity with this article. No person shall wilfully injure or destroy any grass, flower, **tree** or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.

(Comp. Ords. 1969, § 35.047)

Sec. 58-48. Overhead lines; trimming permits.

The director shall annually issue permits granting permission to public utilities to trim and keep trimmed all **trees** within the streets, alleys, parks and public places of the city, in such a manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the department. Such permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder; provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of such public utilities, prior notice of commencing work under such permit shall not be required. The term "emergency," as used in this section, shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

(Comp. Ords. 1969, § 35.048)

Secs. 58-49--58-80. Reserved.