

CHAPTER 33. TREE REGULATIONS

3.31. Definitions. Unless the context specifically indicates otherwise, the following definitions shall apply in the interpretation of this Chapter:

- (1) *Street* shall mean all of the land lying between property lines on either side of all streets, highways and public right-of-ways in the City.
- (2) *Park* shall include all public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- (3) *Tree* shall mean trees, shrubs, bushes and all other woody vegetation, whether potted or not.
- (4) *Curb tree lawn* shall mean that part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.
- (5) *Developer* shall include all persons or an organization of any kind who shall engage in new construction or other improvements in any zoning district of the City.
- (6) *Public utility* shall mean 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 or telegraph service.
- (7) *Prohibited species* shall mean any tree of poplar (*Populus Sp.*), willow (*Salix Sp.*), box elder (*Acer Negundo*), silver maple (*Acer Saccharinum*), locust (*Robina Sp.*), tree of heaven (*Ailanthus Altissima*), catalpa (*Catalpa Sp.*), mulberry (*Morus Sp.*), Siberian Elm (*Ulmus Pumila*), birch (*Betula Sp.*), all soft Maples and any other species so determined by the City Council.
- (8) *Department* shall mean the Department of Public Works of the City. "Superintendent" shall mean Superintendent of the Department or authorized representative.
- (9) The provisions of this Chapter, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the City.

(Ord. No. 204, § 1, 3-19-90)

3.32. Departmental Duties, Responsibilities and Powers.

- (1) The City Manager shall be charged with the duty of enforcing the provisions of this Chapter.
- (2) The City Manager shall have control over all trees located within the street right-of-ways and parks in the City and the planting,

care and removal thereof, subject to the regulations contained in this Chapter.

(Ord. No. 204, § 1, 3-19-90)

3.33. City Council Duties and Responsibilities.

- (1) It shall be the responsibility of the City Council to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented by the City Manager to the City Council along with the proposed budget and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the City of Montague.
- (2) The City Council may retain a registered Michigan Forester as a consultant to assist in the technical matters of Forestry Management.
- (3) The City Council may request the City Manager to consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of this Chapter.

(Ord. No. 204, § 1, 3-19-90)

3.34. Donations, Gifts and Bequests.

- (1) The City Council may receive gifts or bequests from any person for the planting and or maintenance of trees and shrubs on any street or public property.
- (2) Said gifts or bequests shall be received by the City and maintained in a special fund for the above purpose.

(Ord. No. 204, § 1, 3-19-90)

3.35. Reforestation.

- (1) The planting, maintenance, or removal of trees in public places in the City will be performed by the Department of Public Works or private contractor in accordance with adopted policies, and may be accomplished by order of the City Manager or the DPW Superintendent upon recommendation of the City Council, or by petition of parties owning a majority of the lineal footage of the fronting property along a street.

(Ord. No. 204, § 1, 3-19-90)

3.36. Approval Street Tree Species and Standards.

- (1) *Species:* The following list constitutes the official Street Tree species for the City of Montague. No species other than those in-

cluded in this list may be planted as street trees without written permission of the City Manager.

<i>Small Trees</i>	<i>Medium Trees</i>	<i>Large Trees</i>
Crabapple, Flowering	Ash, Marshall	Ginkgo
Hawthorne	Ash, Purple	European Ash
Lilac, Jap Tree	Ash, European	Maple, Norway
Pear, Bradford	Ash, Summit	Maple, Sugar
Plum, Flowering	Ash, Green	Oak, Bur
Redbud	Hackberry	Oak, Pin
Serviceberry	Honeylocust, Thornless	Oak, White
Flowering Dogwood	Honeylocust, Imperial	Sycamore
	Honeylocust, Moraine	London Plain
	Honeylocust, Shademaster	
	Honeylocust, Skyline	
	Honeylocust, Sunburst	
	Hornbeam, American	
	Linden	
	Maple, Red	
	Oak, English	
	Oak, Red	

- (2) *Spacing:* The spacing of Street Trees shall be in accordance with the species size classes listed above and no trees may be planted closer together than the following.

Small Trees	30 Feet
Medium Trees	40 Feet
Large Trees	50 Feet

except in special plantings designed or approved by a landscape architect.

- (3) *Distance from Curb and Sidewalk:* The distance trees may be planted from curbs or curblines and sidewalks shall be in accordance with the species size classes listed above and no trees may be planted closer to any curb or sidewalk than the following:

Small Trees	2 Feet
Medium Trees	3 Feet
Large Trees	4 Feet

- (4) *Distance from Street Corner and Fireplug:* No Street Tree shall be planted closer than thirty (30) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet of any fireplug.

- (5) *Utilities:* No Street Trees other than those species listed as "Small Trees" may be planted under or within ten (10) lateral feet of any overhead utility wire, or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. No. 204, § 1, 3-19-90)

3.37. Permits Required.

(1) *Tree Planting or Removal:*

- (a) No person shall hereafter plant, transplant or remove any tree upon or from any curb tree lawn, street, park or public place in the City of Montague, nor cause such act to be done by others without first obtaining a written permit from the office of the City Manager.
- (b) Persons receiving such permit shall abide by the ordinances and policies adopted by the City of Montague.

- (2) *Application for Permits:* Applications for permits must be made at the office of the City Manager not less than seventy-two (72) hours in advance of the time the work is to be done.

(3) *Permit Expiration:*

- (a) Each permit granted shall contain an expiration date, and the work shall be completed in the time allowed in the permit, and in the manner therein described.
- (b) Any permit issued shall be void if its terms are violated, or if the work described is not substantially completed by its expiration date.
- (c) Permit extensions will be considered if conditions warrant.

(4) *Permit Contents:*

- (a) Every permit issued by the City Manager shall describe work to be done, or state the number of trees to be removed or planted and the location, size, species, or variety of each tree, the method of planting and other information that the City Manager or DPW Superintendent may require to insure that the work will be done properly.
- (b) Whenever any tree shall be planted in conflict with the provisions of the permit, it shall be lawful for the City Manager or DPW Superintendent to cause removal of the same, and the cost for removal shall be assessed to the permittee as provided by law in the case of special assessments.

(5) *Permit Fee and Supervision:*

- (a) No charge shall be made for any permit unless it is necessary to retain a consultant to supervise the provisions of the permit, and in such case, the City Manager shall determine

the charge for the service based on actual cost plus an additional one percent (1%) of the actual cost of the service for city administrative purposes.

- (b) In issuing any and all permits, the City Manager shall act promptly and shall keep duplicate records of all permits issued and of compliance therewith.
- (c) Permits for all tree management activities will be issued only after the DPW Superintendent or the City Manager makes a thorough investigation as to the advisability of the proposed work.

(Ord. No. 204, § 1, 3-19-90)

3.38. Developer's Responsibility.

- (1) *General:* Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the City of Montague including, but not limited to, subdivision regulations and site plan requirements.
- (2) *Minimum planting requirements:* One (1) tree of an approved species measuring at least two (2) inches caliper shall be planted in the street at all new construction sites, residential or otherwise, for each site or lot if eighty (80) feet or less, and at least two (2) trees for every lot in excess of eighty (80) feet frontage. Corner lots shall require at least one (1) tree for each street. The developer shall show the location of the required trees on the submitted site plan prior to the issuance of a building permit. The developer shall be responsible for fulfilling these requirements.

(Ord. No. 204, § 1, 3-19-90)

3.39. Protection of Trees and Shrubs. Unless a permit shall have been issued by the City Manager, it shall be unlawful for any persons to do the following to any trees in or upon any curb tree lawns, parks or other public places:

- (1) Fasten any sign, card, poster, wire, rope or other material to, around or through, any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care;
- (2) Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner;
- (3) Permit any fire to burn where such fire will injure any portion of any tree or shrub;
- (4) Permit any toxic chemical to seep, drain, or to be emptied on or about any tree or shrub;
- (5) Deposit, store, place or maintain, on any street, highway, or other public place, any brick, sand, stone, concrete or other material

which may impede free passage of water, air, and fertilizer to the roots of any tree or shrub growing therein;

- (6) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of forty (40) feet of any tree;
- (7) Knowingly permit any electrical wires to come into contact with any tree or shrub;
- (8) Allow excavations and driveways to be placed within five (5) feet of any tree without written permit from the DPW Superintendent. Any person making such excavation or construction shall guard any tree within six (6) feet thereof with a good substantial frame box to be approved by the Department, and all building materials or other debris shall be kept at least four (4) feet from any tree.
- (9) Plant any prohibited species of tree as set forth in Section 3.31. (Ord. No. 204, § 1, 3-19-90)

3.40. Compensation For Trees Destroyed Or Damaged. The cost of public trees growing on streets, curb tree lawns, parks, or other public places which are destroyed or damaged to the point where repair or replacement is needed, shall be paid for by the person or persons causing such damages in the amount needed to replace or repair the destroyed or damaged trees. The City Council shall determine all questions of cost related to damage. Any value realized from any tree removed from public property shall be for the exclusive benefit of the City. (Ord. No. 204, § 1, 3-19-90)

3.41. Authority Of City Manager, DPW Superintendent To Inspect Trees on Private Property. The City Manager, DPW Superintendent or their agents shall have authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects, or diseases are suspected. The City may remove such specimens as are required for analysis to determine the presence of insect, disease, or other detrimental conditions. It shall be unlawful for any person to prevent the City Manager, Superintendent or their agents from entering private property for purposes of carrying out the duties hereunder. (Ord. No. 204, § 1, 3-19-90)

3.42. Private Trees; Disease, Insect, and Other Hazards.

- (1) When the City Manager or DPW Superintendent shall discover that any tree growing on private property within the City is afflicted with any dangerous insect, infestation, disease or condition, he shall immediately serve a written notice upon the property owner or his agent describing the tree or trees, their location,

the nature of the insect infestation, disease or condition, and order the owner or his agent to take necessary measures to abate the insect infestation, or disease or condition, to prevent the spreading thereof, and shall specify the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary.

- (2) Every notice shall be complied with within a definite time as stated in the notice, but within no less time than ten (10) days after service thereof upon the property owner.
 - (3) If at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, the City shall carry out the requirements of that notice. The cost of completing the work necessary to resolve the condition complained of shall be assessed against the property on the next tax roll of the City.
- (Ord. No. 204, § 1, 3-19-90)

3.43. Trimming and Removal of Trees on Private Property.

- (1) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a traffic hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove the obstruction from the public street, highway, sidewalk, park, or public place and so as to eliminate the traffic hazard and the menace and the danger to the public, pursuant to written notice by and under the supervision of the City. All tree branches shall be trimmed to maintain a clear vision area for the vertical height of ten (10) feet above the street or right-of-way.
 - (2) When such notice is given, the property owner will be given a reasonable and definite time to comply with the order, but not less than ten (10) days, unless immediate hazard exists. If the work is not satisfactorily completed within that time, then the City DPW Superintendent or his agents may enter upon the property, make the necessary trimming or removals, and properly dispose of the same; provided that all or part of the costs involved in the trimming or removal when done by the City DPW Superintendent or his agents shall be assessed against the property on the next tax roll of the City. 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.
- (Ord. No. 204, § 1, 3-19-90)