

City of Mt. Pleasant – Tree Ordinance

# CHAPTER 99: TREES, SHRUBS AND PLANTS

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## **GENERAL PROVISIONS**

### **§ 99.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**OWNER.** Any person, firm or corporation having fee simple title, joint or common tenancy, equitable ownership or the interest of a mortgagee in possession. Any person, firm or corporation whose name appears on the last preceding assessment roll for the property shall be deemed the prima facie owner of the property within this chapter.

**PLANT.** A young tree, vine, shrub, or herb planted or suitable for planting.

**PUBLIC HIGHWAY.** A street, road or passage under the control of and kept by the public, established by regular proceedings for the purpose or generally used by the public or dedicated by the owner of the soil and accepted by the proper authorities and for the maintenance of which they are responsible. Highway includes roads, streets, alleys, lanes, courts, places, trails and bridges laid out by the public or dedicated or abandoned to the public. Highway shall include all lands between property lines of property abutting highways.

**PUBLIC PLACE.** A place to which the general public has the right to resort; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private.

**SHRUB.** A low, small plant, the branches of which grow directly from the earth without any supporting trunk, or stem. Any tree with a potential growth of less than 15 feet shall be considered a shrub.

**TREES.** A woody plant, the branches of which spring from, and are supported upon, a trunk or body which at its greatest potential growth, exceeds 15 feet in height.

**VEGETATION.** Plant life or total plant cover of an area.

**VINE.** A plant whose stem requires support and which climbs by tendrils or twining or creeps along the ground.

(Ord. 545, passed 3-6-78)

### **§ 99.02 PRESERVATION AND REMOVAL OF TREES IN PUBLIC PLACES.**

The Director of Public Works shall have the right to plant, trim, spray, preserve or remove all vegetation on highways and public places as may be necessary to promote the health, safety or welfare of the community and to aesthetically enhance the symmetry and beauty of public places. The Director of Public Works may remove or cause to be removed any vegetation in an unsafe condition or infected with any injurious fungus, insect or other pest.

(Ord. 545, passed 3-6-78)

### **§ 99.03 PROHIBITED SPECIES.**

(A) It shall be unlawful for any person to plant on any highway or public property within the city limits a *Poplar grandidentata* (Big Tooth Aspen), *P. tremuloides* (Quaking Aspen), *P. balsmifera* (Balsam Poplar), *P. deltoides* (Eastern Cottonwood); *Ailanthus altissima* (Tree of Heaven); *Catalpa speciosa* and *C. bignonioides* (Catalpas); *Acer negundo* (Box Elder), *A. saccharinum* (Silver Maple); *Ulmus parvifolia* (Chinese Elm), *Ulmus pumila* (Siberia Elm), *U. rubra* (Slippery Elm), *U. thomasii* (Rock Elm), *U. americana* (American Elm); *Juglans nigra* (Black Walnut); *Salix nigra* (Black Willow), *S. babylonica* (Weeping Willow); Ginkgo (*Ginkgo Biloba* female); Mulberry (*Morus Spp.*); Black Locust (*Robinia Spp.*); without procuring a special permit from the Director of Public Works.

(B) Any of the above-named species may be removed or caused to be removed by the Director of

Public Works when it is deemed in the interest of public health, safety and welfare.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.04 PERMIT TO PLANT REQUIRED; APPLICATION FOR PERMIT.**

(A) No person shall plant or set out any tree or shrub or cause or authorize anyone to do so on any public highway or public place without obtaining a written permit from the Director of Public Works. Such permit, when issued, shall set forth the conditions under which the planting may be made in accordance with the provisions of this chapter or rules and regulations adopted by the city.

(B) The form of application and form of permit shall be in accordance with the rules and regulations adopted by the city.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.05 REPLACEMENT OF VEGETATION.**

Whenever any vegetation is removed by any person (including the city) for the construction of any public improvement, or is severely damaged by pruning to clear utility lines, the Director of Public Works, whenever practicable, shall require the planting of a similar tree, bush or shrub to take the place of those removed.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.06 ELECTRICAL WIRES.**

No person shall cause a wire or other conductor charged with electricity to come in contact with any tree, plant or shrub within any public highway or public place in such a manner as to injure or abrade such tree, plant or shrub. The Director of Public Works may order any person to prune or remove any tree, plant or shrub growing within a public highway or public place or, in the alternative, to remove any wire or wires running thereon in violation of this section with 24 hours after written notice to the owner or person in control of such wire or wires. The owner or agent so notified shall be responsible for the protection of the highway, public place, and persons thereon during the progress of tree operations deemed essential under this section.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.07 STONE AND CEMENT.**

No person shall place or maintain on any public highway or public place any stone, cement or other impervious material or substance in such a manner as to obstruct the free access of air and water to the roots of any tree, plant or shrub thereon without the written permission of the Director of Public Works.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.08 WIRES AND ROPES.**

No person shall attach or cause to be attached to any tree, plant, or shrub within a public highway or public place any rope, wire, chain, sign or other device without the written permission of the Director of Public Works.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.09 DESTRUCTION OR DAMAGE TO TREES AND SHRUBS.**

No person shall mutilate, disfigure or destroy any tree or shrub or discharge or cause to be discharged any gas, oil, salt, herbicides or other substances dangerous to vegetation upon any tree, shrub or plant or the soil surrounding the same within any public highway or public place.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.10 TREE PROTECTION.**

During any construction, repair, alteration or removal of any building or structure, it shall be unlawful for any person to leave any tree, bush or shrub within any public highway or public place without sufficient guard or protection so as to prevent injury thereto by reason of such construction, repair, alteration or removal. No tree, bush or shrub shall be moved or removed from any public highway or public place without the written consent of the Director of Public Works. All such removal or moving shall be done at the expense of the applicant. Any tree, bush or shrub destroyed by reason of removing or moving shall be replaced by the applicant at his/her expense.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.11 TREE MAINTENANCE; OBSTRUCTIONS PROHIBITED.**

(A) Any tree, bush or shrub projecting upon or over any public highway or public place shall be kept trimmed by the owner of the property on which said tree, bush or shrub is located to a minimum of nine feet from the natural ground level. No tree, bush or shrub on any private property shall obstruct the light of any public street lighting or obstruct the view of any traffic sign or signs erected by the city or any public governmental unit.

(B) If the Director of Public Works determines that any tree, bush or shrub is a danger to the public health, safety or welfare, the Director shall notify the owner of the

private property upon which said tree, bush or shrub is growing, by personal service or certified mail at the owner's last address, as shown in the record of the City Assessor, notifying said owner to trim, treat, prune or remove such tree, bush or shrub.

(C) If an owner of any private property so notified concerning the trimming or removal of any tree, bush or shrub has not removed, trimmed or treated the same within 15 days after mailing of the aforesaid notice, or does not have an appeal pending, the Director of Public Works is authorized or remove, treat to trim the same and to charge the owner for the cost thereof.

(D) Any owner receiving a notice under division (B) above, shall have the right to appeal the determination of the Director of Public Works by submitting a written request for hearing to the Commission within ten days of receipt of the notice. The request for hearing shall be directed to the Commission, at City of Mount Pleasant, City Hall, Mount Pleasant, MI 48858. The request for hearing shall stay the actions of the Director of Public Works until real determination by the Commission. The Commission shall notify the owner, in writing, by personal service or certified mail, at least seven days prior to the regularly scheduled meeting of the Commission of when the public hearing shall be held. The owner may appear before the Commission personally, by agents or may submit his/her objection to the actions of the Director of Public Works in writing. The Commission may confirm, amend or reverse the instructions of the Director of Public Works and shall determine the date for compliance by the owner, with 15 days after the date of the public hearing. The Commission shall transmit in writing the finding of fact and report of its action to the Director of Public Works and the owner.

(E) When the Division of Public Works has removed, trimmed or treated any offending tree, bush or shrub on private property, or has paid for such trimming, treating or removal, the owner shall be charged the actual cost of said removal plus accrued interest at the rate of 1% per month from the date of completion of said work. If the same is not paid by the owner of the private property on which the tree, bush or shrub is located, the same shall be charged to the owner by the city, and said charge shall be due and payable at the time of payment of such tax bill.

(F) Where the full amount due the city is not paid by such owner within 60 days after the trimming, pruning, treatment or removal of such prohibited growth, as set forth in divisions (C) and (E), above, then, the Director of Public Works shall cause to be recorded in the Treasurer's Office of the city a sworn statement showing the cost and expense incurred for the work and the date, place or property on which said work was done. The recording of such statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made and shall be collected in the manner provided by law for the collection of taxes; further, the total amount shall be subject to a delinquent penalty of 1% per month in the event same is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent; said sworn statements recorded in

accordance with the provision hereof, shall be notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property described in the statement and that the same is due.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.12 INTERFERENCE WITH DIVISION OF PUBLIC WORKS OR EMPLOYEES.**

(A) It shall be unlawful for any person to prevent, delay or interfere or cause or authorize or procure any interference or delay with the Director of Public Works or any of his/her employees or agents while they are engaged in or about the planting, cultivating, mulching, pruning, spraying, trimming, or removing of any vegetation; devices attached to a tree, plant or shrub in accordance with the requirements set forth in § 99.08 hereof; removing of stone, cement or other material or substances as may be necessary for the protection of any vegetation in accordance with the requirement of §§ 99.07 and 99.09 hereof.

(B) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## ***RULES AND REGULATIONS FOR TREES***

### **§ 99.25 DUTIES OF DIVISION OF PUBLIC WORKS AND DIRECTOR.**

The Division of Public Works shall have control of the planting, cutting, trimming and removal of all vegetation within a public highway and the Director of Public Works shall promulgate and adopt rules and regulations to effectuate the provisions of this chapter. No rules or regulations promulgated hereunder shall be adopted until there has been a public hearing before the Commission and approval of the same by resolution of the Commission.

(Ord. 545, passed 3-6-78)

### **§ 99.26 ADOPTION OF RULES AND REGULATIONS.**

The rules and regulations set forth in this subchapter are adopted in accordance with § 99.25 of the code and were approved by the Commission on March 6, 1978.

(Ord. 545, passed 3-6-78)

## **§ 99.27 RULE 1.1 PERMIT REQUIRED.**

(A) No person, firm or corporation shall plant, trim or remove a tree, shrub or vine on any property under the control of the city without first obtaining a permit from the Division of Public Works.

(B) An application for a permit shall be made at least 48 hours in advance of the date the work is to be performed and shall describe the work to be done and the variety, size and location of each item to be planted or trimmed.

(C) A permit shall be issued without charge and shall expire 60 days after the date of issue.

(D) Applications submitted by owners of the abutting property for the planting of trees, shrubs and vines need not be accompanied by a certificate of insurance but all other applicants shall have attached a current certificate of insurance in the amount of not less than those given on the attached Certificate of Insurance.

(E) Any work done under a written permit must be performed in strict accordance with the terms thereof and provisions of Chapter 100 of the Code of Ordinances, Trees, Plants and Shrubs, and the Rules and Regulations regarding trees, plants and shrubs, and under the supervision and direction of the Director of Public Works.

(F) If the work described in the application is not completed within 48 hours of the date of issue the applicant shall notify the Director of Public Works upon completion of the work or any major portion of it.

(Ord. 545, passed 3-6-78)

## **§ 99.28 RULE 1.2 PLANTING PLANS.**

(A) Whenever five or more trees are to be planted, two copies of a diagram drawn to scale or

written statement describing the work shall accompany the application.

(B) The diagram or statement shall indicate:

(1) The species of each tree to be planted and the species of existing trees within 40 feet of the proposed new tree(s).

(2) The distance between existing or proposed trees including any on private property within 40 feet of a proposed new tree.



(3) The location of existing or proposed sidewalks, curbs and other hard surfaced areas within 40 feet of a proposed tree.

(C) Applicants for permits to remove a tree shall agree to observe the city's requirements for barricading streets and shall observe such additional instructions as may be included in the permit to protect the public from injury.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.29 RULE 1.3 PLANTING.**

(A) Newly planted trees must be not less than 1¼" in diameter of trunk measured six inches above ground level and free from disease and insect infestations.

(B) The spacing between trees will be determined by the species being planted a minimum of 25 feet apart. This rule shall not prohibit the planting of at least one tree per lot. Existing trees at the time of passage of this chapter shall be replaced when removed in the future.

(C) No tree shall be planted nearer than three feet from an existing or future curb line or outer line of the sidewalk unless a special permit is granted by the Director of Public Works.

(D) No tree may be planted where the clear space between the curb and sidewalk is less than six feet.

(E) All trees from 1¼" to 3" in diameter of trunk measured six inches above the ground, must be protected and supported by tree guards. If only one stake is used, it must be toward the prevailing winds.

(F) Trees shall be planted at least ten feet from the intersection at a driveway or alley and a street right-of-way and shrubs at least five feet therefrom.

(G) Species prohibited by ordinance shall not be planted for the reasons listed below:

- (1) Prone to clogging sewers with roots.
- (2) Short-lived.
- (3) Weak branches and limbs.
- (4) Susceptible to Dutch Elm Disease.

Poplar - (1), (2), (3)

Big Tooth Aspen - (1), (2), (3)

Quaking Aspen - (1), (2), (3)

Balsam Poplar - (1), (2), (3)

Box Elder - (1), (2), (3)

Tree of Heaven - (3)

Catalpa - (1)

Silver Maple - (1), (3)

Chinese Elm - (1)

Siberian Elm - (3)

Slippery Elm - (1), (4)

Rock Elm - (1), (4)

American Elm - (1), (4)

Black Walnut - (1)

Eastern Cottonwood - (1), (3)

Black Willow - (1)

Weeping Willow - (1)

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.30 RULE 1.4 TREE TRIMMING.**

### *(A) General requirements.*

(1) The trees shall be pruned by removal of all dead, diseased, broken and crossing branches.

(2) Live branches shall be removed to maintain the natural shape and appearance of the trees. Mutilation and loss of characteristic shape of the trees shall be prohibited.

(3) Selective removal of complete limb or limbs shall be performed rather than excessive clipping with pruners i.e., a “hedge trimming” effect shall be avoided.

(4) Saw or pruner cuts shall be flush with the parent limbs or trunk of the tree.

(5) Limbs shall be precut, using a three-cut technique to prevent splitting or stripping of bark. Ropes shall be used for lowering cut branches where necessary to prevent damage to trees, conductors, fences, cars and other property.

(6) No “hangers” shall be left in the trees after pruning is completed.

(7) All old stubs shall be removed and treated. All old scars shall be inspected and if not healing properly, shall be retraced and treated.

(8) The lower branches of the tree shall be raised (where the top is sufficient to maintain balanced life) to a height of 14 feet above the traveled portion of the street at the curb line and seven feet above the sidewalk and outlawn areas.

(9) Tools used to prune suspected or diseased trees shall be disinfected before being used on another tree.

(B) *Pruning procedures and scope of work.* Any tree large enough to support a trimmer shall be climbed and trimmed. It will not be deemed sufficient for the trimmer to remain on the ground and trim trees with a pruning pole unless agreed upon by the Director of Public Works.

(1) *Light pruning.* The removal of dead wood, suckers, crossed branches and stubs up to one-inch in diameter.

(2) *Medium pruning.* The work will include all of item 1 (light pruning) plus branches up to four inches in diameter. Wounds are to be treated with a tree paint containing naphthamoleacitec acid.

(3) *Heavy pruning.* Work will include items 1 (light pruning) and 2 (medium pruning) above. Also include the removal of limbs over four inches in diameter. Items 1, 2, and 3 above will include topping (pollarding), trace and paint, treatment for girdling roots, installation of supporting cables and/or bolting and sectional cavity repair work when specifically requested by the Director of Public Works.

(4) *Shaping.* If in obtaining the desired shape, trees are rendered unsightly due to lack of symmetry, further pruning to restore their appearance shall be carried out. The

extent of such shaping shall be governed by the location and type of tree, the nature of its surroundings, and the like. Full shaping will consist of:

(a) The removal or shortening by natural methods of branches in the crown of the tree. Sufficient growth must be left on a cut back branch to keep it alive and when possible the branch being shortened shall be cut back far enough to preserve the natural appearance of the tree.

(b) Side pruning shall not be so severe as to restrict the tree's ability to produce the food necessary for healthy growth. Top growth shall not be reduced a greater amount than that permissible for the species as listed below:

50%-Silver Maple, Willow, Poplar and other fast-growing varieties

40%-Basswood, Elm, Walnut, Ash

14-20%-Beech, Norway and Sugar Maples and other slow-growing species

(C) *Pruning and utility wires.*

(1) Any line clearing operation shall provide adequate clearance for all power and communications circuits, including primary service leads, as well as strain and anchor guys attached to the poles or structures of the line.

(2) *Limbs under conductors.* Limbs growing up into the conductors from the side of a tree shall be removed at the main trunk. If this appears impractical or inadvisable, the limbs shall be shortened to avoid whipping up into the line.

(3) *Limbs parallel with conductors.* Limbs growing out from the side of a tree, parallel with

conductors, and could sway into the lines, shall be removed if practical, or shortened.

(4) *Overhanging limbs.* Limbs directly over the conductors shall be removed if practical; otherwise, they shall be shortened sufficiently to prevent their dropping in to the wires under the additional weight of snow or ice.

(5) *Dead limbs.* All dead limbs shall be removed.

(D) *Hazardous trees.*

(1) *Reporting.* Any person engaged in trimming or pruning who becomes aware of a tree of doubtful strength which could be dangerous to persons and property shall

report it to the Director of Public Works. Such trees shall include those that are over mature, diseased, or showing signs of decay.

(2) *Diagnosis.* Trees of doubtful strength shall be bored at the base with a ½-inch auger to determine the amount of dead wood. At least three borings shall be made. Borings shall also be made in the wood surrounding doubtful areas in the trunk or main branches as may be indicated by exposed wood, frost cracks, bulges or sunken areas. These procedures shall be performed by the city.

(3) *Test holes to be plugged.* Test holes in all trees left standing following diagnosis shall be plugged with bark around the holes with a knife. The end of the dowel shall be flush with the wood and the wound treated with a tree wound dressing.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.31 RULE 1.5 TREE REMOVAL.**

(A) The city will remove trees at its expense and when funds are available from city-owned property in accordance with the following priority list.

(B) Any reason for tree removal which is not included in the priority system will be considered separately and rated in importance with the existing priority system. Trees will be removed according to the priority system to include as many as can be removed under the existing budget for tree removal.

(1) *Priority No. 1.* Removal of dangerous trees. Includes any tree which is in immediate danger of loss of limbs or total collapse of the tree, as determined by the arborist.

(2) *Priority No. 2.* Removal of 100% dead trees. Removal of any trees in which the crown area is 100% dead or missing, but is not considered dangerous. This priority also includes trees which are affected by an epizootic disease.

(3) *Priority No. 3.* Removal of 75% dead trees. Includes trees which have 75% of the crown dead or missing.

(4) *Priority No. 4.* Removal of 50% dead trees. Includes trees which have 50% of the crown area dead or missing, except where trimming will produce a suitable shaped tree.

(5) *Priority No. 5.* Removal of female Box Elder and Elm. Includes all female Box Elder, especially if removal is requested by the property owner. Includes all American Elm trees that have 25% of the crown dead and shows definite signs of Dutch Elm Disease or Elm Phloem Necrosis.

(6) *Priority No. 6.* Removal for driveway improvements. Includes trees which completely block a proposed driveway or interfere with the installation or improvement of a driveway, upon request of owner of adjacent property.

(7) *Priority No. 7.* Removal for driveway impairment. Includes trees which impair movement of vehicles in and out of a driveway.

(8) *Priority No. 8.* Removal for sidewalk raising. Includes trees which have roots that are raising the adjacent sidewalk and sidewalk repair is unlikely to correct the problem.

(9) *Priority No. 9.* Removal for sewer trouble. Includes trees which have roots that plug sewers.

(10) *Priority No. 10.* Removal for heavy seeding. Includes trees which have undesirable heavy seeding upon request of the owner of adjacent property.

(11) *Priority No. 11.* Removal for sidewalk raising. Includes trees which:

(a) Have a trunk that blocks traffic visibility.

(b) Have a root area which interferes with the curb and sidewalk, and have roots which come to the surface.

(c) Interfere with fire hydrants, traffic-control, or other utilities.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

## **§ 99.32 RULE 1.6 SAFETY CLEARANCE.**

(A) (1) After the effective date of these regulations in all zoning districts where yards are required adjacent to the intersection of two streets, no structure, planting or fence shall be erected or maintained which is higher than three feet above the street grade or more than 10% solid within a triangle formed by the intersection street property lines and a line between two points located 20 feet from such intersecting lines.

(2) This requirement shall include the additional land in the triangle area formed by extending such line to the street edge.

(B) Shrubs and trees growing in violation of this rule on the date these regulations become effective may be removed in the manner provided by § 99.02 of the Code of Ordinances, if, after evaluation of and documentation of vehicle speeds, traffic volume, accident experience, right-of-way width, direction of vehicle travel and all other related

factors, it is determined by the Traffic Engineer that such shrubs or trees create a safety hazard to motorists, bicyclists or pedestrians.

(Ord. 545, passed 3-6-78) [Penalty, see § 99.99](#)

### **§ 99.99 PENALTY.**

(A) If any person shall attempt to prevent, delay, or interfere with the Division of Public Works, or shall cause or authorize or procure the same, or shall violate any of the provisions of this chapter, with the exception of § 99.11, or rules adopted pursuant thereto, upon conviction thereof be subject to a penalty as provided in § 10.99.

(B) Any person violating § 99.11 shall be held responsible for a municipal civil infraction and prosecuted in accordance with the Municipal Civil Infractions Ordinance. The fine for violation of a municipal civil infraction under this chapter shall be \$50; the second violation, \$100; and the third or any subsequent violation within any one calendar year, \$250.

(Ord. 545, passed 3-6-78; Am. Ord. 771, passed 8-14-95)

#### ***Cross-reference:***

*Municipal civil infractions, see [Chapter 36](#)*

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