

City of New Baltimore – Tree Ordinance

ARTICLE VII. TREE REGULATIONS ON PUBLIC PROPERTY*

***Cross references:** Trees, shrubbery, lawns on park property, § 34-122; streets, sidewalks and other public places, ch. 48.

State law references: Care of trees and shrubs along highways, MCL 247.241 et seq.; injury or destruction of trees on public property, MCL 19.142(1)(a); municipal forests, MCL 324.52701 et seq.

Sec. 20-221. Definitions; applicability.

(a) 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:

Park includes all public parks having individual names, and all areas owned by the city 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 or telegraph service.

Street means all 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.

(b) The sections of this article, except as otherwise specifically stated, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city. (Code 1981, § 3.91)

Cross references: Definitions generally, § 1-2.

Sec. 20-222. Responsibility.

The director of public works shall be charged with the duty of enforcing this article. (Code 1981, § 3.92)

Sec. 20-223. Enforcement authority; permits; removal by abutting property owner.

(a) The director of public works 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 this article.

(b) 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.

(c) 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 director and assume all or any part of the costs of removing such tree. (Code 1981, § 3.93)

Sec. 20-224. Public tree removal.

The city 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 ensure safety or to preserve the symmetry and beauty of such public grounds. The director of public works may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition; which is of a prohibited species; or which is affected with any injurious disease, fungus, insect or other pest. Whenever the city shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the director shall, if practicable, replace the tree at public expense, at some nearby location, by planting another tree, plant or shrub, not necessarily of the same type.

(Code 1981, § 3.94)

Sec. 20-225. Planting of shade trees.

Future plantings of shade and ornamental trees in the streets, parks and public places of the city may be done by the city upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the city council insofar as such rules and regulations do not conflict with any other section 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 rules and regulations as published under this article.

(Code 1981, § 3.95)

Sec. 20-226. Tree protection.

(a) 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 therefrom to injure any portion of any tree.

(b) No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree.

(c) 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.

(d) No person shall use any tree as an anchor except by special written permit from the director of public works, and no sign, poster, notice or other material shall be attached or fastened to or hung on any tree.

(e) 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 director, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the city.

(Code 1981, § 3.96)

Sec. 20-227. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the director of public works. 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 director, and all building material or other debris shall be kept at least four feet from any tree.

(Code 1981, § 3.97)

Sec. 20-228. 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.

(Code 1981, § 3.98)

Sec. 20-229. Gas main leakage.

Gas pipes or mains within any public right-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.

(Code 1981, § 3.99)

Sec. 20-230. Private tree 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 eight feet above the surface of the sidewalk and any part of the street right-of-way, except roadway, and at least 12 feet above any roadway or part of any street intended for vehicular traffic. Such owner shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public, and the city shall have the right to do so if the owner fails to do so. 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 streetlight 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.

(Code 1981, § 3.100)

Sec. 20-231. 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 30 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 30 inches from the top of the curb at street level, 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 eight feet above the roadway surface.

(Code 1981, § 3.101)

Sec. 20-232. Private tree diseases and infestations.

When the director of public works 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 section 46-21, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent or 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.

(Code 1981, § 3.102)

Sec. 20-233. 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 20-232. 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 of public works.

(Code 1981, § 3.103)

Sec. 20-234. Appeals.

If owner, agent or occupant of the property shall feel himself aggrieved at an order of the director of public works requiring the treatment or destruction of any tree, he may within 48 hours make an appeal to the city council by communication filed with the city clerk.

The city council 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.

(Code 1981, § 3.104)

Sec. 20-235. Private tree owner's failure to comply.

Under this article if the owner, agent or occupant of the property refuses to carry out the order of the director of public works within the time limited or, in an appeal, within five days after the city council 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. If the owner of such property shall fail to pay such bill within 60 days after the bill has been rendered, the director may report the nonpayment to the city council for collection as a single lot assessment against the property in accordance with section 46-21. The director may, without serving such 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 it necessary on account of any infestation or disease or threat thereof.

(Code 1981, § 3.105)

Sec. 20-236. Inspection of private trees.

The director of public works and his 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 damage shall be awarded for the destruction of any tree, shrub, or plant or fruit or injury to such if done by the director or under his direction, in accordance with this article.

(Code 1981, § 3.106)

Sec. 20-237. Lawn extensions.

On residence streets, the abutting owner or occupant shall 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 willfully 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.

(Code 1981, § 3.107)

Sec. 20-238. Overhead lines; trimming permits.

The director of public works shall grant 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 director. Such permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced. However, in an emergency requiring immediate maintenance work on the overhead lines of the public utilities, prior notice of commencing work under the permit shall not be required. The word "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.
(Code 1981, § 3.108)

Sec. 20-239. Rules and regulations.

The director of public works shall make such rules and regulations supplementary to this article and not in conflict with this article 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.

(Code 1981, § 3.109)