

## City of North Muskegon – Tree Ordinance

### ARTICLE II. TREES AND SHRUBS\*

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**\*State law references:** Planting of trees along highways, MCL 247.231 et seq., MSA 9.351 et seq.; care of trees and shrubs along highways, MCL 247.241 et seq., MSA 9.361 et seq.

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#### Sec. 70-31. 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:

*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 poplar (*Populus* spp.), willow (*Salix* spp.) 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 and shall include any portion of the right-of-way.

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

(Code 1980, § 3.61(1)--(5))

**Cross references:** Definitions and rules of construction, § 1-2.

#### Sec. 70-32. Applicability of article.

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.

(Code 1980, § 3.61(7))

#### Sec. 70-33. Responsibility for enforcement.

The city manager shall be charged with the duty of enforcing the provisions of this article.

(Code 1980, § 3.62)

#### Sec. 70-34. Authority to make additional rules and regulations.

The city manager 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 section.

(Code 1980, § 3.78)

Sec. 70-35. Control over trees on public property; permit for planting, care or removal.

The city manager 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 city manager, 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.

(Code 1980, § 3.63)

Sec. 70-36. Planting, care and removal of trees on public property by city.

The city manager 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.

(Code 1980, § 3.64)

Sec. 70-37. Damaging trees.

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 city manager, and no sign, poster, notice or other material shall be attached or fastened to or hung on any tree.

(Code 1980, § 3.65)

**State law references:** Destruction of trees and shrubs, MCL 750.382, MSA 28.614; injury or destruction of trees on public highways, MCL 247.235, MSA 9.355; attaching advertising to trees prohibited, MCL 247.235, MSA 9.355.

Sec. 70-38. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without a written permit from the city manager. 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.

(Code 1980, § 3.66)

Sec. 70-39. 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 1980, § 3.67)

Sec. 70-40. Gas leaks near trees.

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.  
(Code 1980, § 3.68)

Sec. 70-41. Clearance of trees on private property overhanging right-of-way.

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 the roadway, and at least 12 feet above any roadway or part of any street intended for vehicular traffic. The 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 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. The cost of any such trimming may be collected from the owner of the property as a single lot assessment in accordance with the Charter and any applicable law.  
(Code 1980, § 3.69)

Sec. 70-42. Planting in certain locations prohibited.

No person shall plant any tree, bush or other type of shrubbery upon any property in the city, whether owned by such party or not, in any area lying between a line running parallel to and 2 1/2 feet inside the property line along any street or highway and the curb or edge of the pavement, where no sidewalk exists. Where sidewalks exist, no such planting shall be done in any area lying between a line four feet inside of the inner side of the sidewalk and the curb or edge of the pavement of the abutting street.  
(Code 1980, § 3.70)

Sec. 70-43. Clearance at street intersections.

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 20 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 in height 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 lawfully planted and maintained on private property in this area shall be trimmed to maintain a clear vision for a vertical height of eight 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 70-41 shall be notified by the city manager, in the manner provided in section 1-8, 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 city manager may cause the trimming to be done and the cost thereof may be collected from the owner of the property as a single lot assessment in accordance with the Charter.

(Code 1980, § 3.71)

**Cross references:** Streets, sidewalks and other public places, ch. 58.

Sec. 70-44. Diseased or infested trees on private property.

(a) *Notice to treat or destroy tree.* When the city manager 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 1-8, 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) *Control of 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 city manager shall learn of the condition, and if on private property within ten days after notice as specified in subsection (a) of this section. No person shall possess, sell, give away or transport any elm tree afflicted with the fungus *Ceratostomella ulmi* or 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 in a manner approved by the city manager.

(c) *Appeals.* In case the owner, agent or occupant of the property shall feel himself aggrieved by an order of the city manager 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.

(d) *Failure to comply with order.* In case the owner, agent or occupant of the property refuses to carry out the order of the city manager within the time limited, or in case of an appeal, within five days after the council shall have affirmed such order, the city manager 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 bill has been rendered, the city manager shall report the bill to the city council for collection as a single lot assessment against the property in accordance with the Charter and applicable law. The city manager may, without serving the notice required by this section, 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 spraying necessary on account of any infestation or disease or threat thereof.

(e) *Inspections; liability for damages.* The city manager 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 damages shall be awarded for the destruction of any tree, shrub, or plant or fruit or injury to any tree, shrub, or plant if done by the city manager or under his direction in accordance with this article.

(Code 1980, §§ 3.72--3.76)

Sec. 70-45. Trimming by public utilities.

The city manager 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 city manager. Such permission 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 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 1980, § 3.77)

**Cross references:** Utilities, ch. 66.

Secs. 70-46--70-60. Reserved.