

Call to Order	The regular meeting of the Manistee City Council was called to order by His Honor, Mayor John L. Della Pia, on Tuesday, January 15th, 1991, at 7:30 p.m.
Tribute Given	Mayor Della Pia asked for a moment of silence in tribute to the men and women of the U.S. Armed Forces in the Persian Gulf.
Roll Call	Present: Councilmen V. Hansen, Rick Linke, and Rudy Linke; Councilwoman Adams and Mayor Della Pia - 5.  Absent: Councilman Gamache (on vacation) and Kruszka - 2.
17862 Approve Consent Agenda: Minutes; Payroll; Trees; Report; Girl Scout Cookie Sale OK; Work Session Jan. 22	Also Present: City Manager, City Attorney, City Engineer, City Treasurer, Public Safety Director and Public Works Foreman.  It was moved by Councilwoman Adams, seconded by Councilman Rick Linke, to approve the Consent Agenda that included: Minutes; Payroll; City Treasurer's Report; Authorization of the annual Girl Scout Cookie Sale from Feb. 1-11, 1991; and notice of the next work session on Tuesday, Jan. 22nd. - All present votine in favor, 5-0.
17856 Ordinance for Tree Commiss.	At the regular Council meeting of June 5, 1990, the Mayor and City Council took action to appoint an advisory group to a newly created Tree Commission. The Tree Commission was charged with the responsibility of formalizing its role and responsibilities as well as the City's role and responsibilities as they relate to boulevard trees and trees in the City's park system.  Over the last seven months the Tree Commission has met to review alternatives and draft an ordinance which would establish those rights and responsibilities. That draft ordinance has been reviewed by the Council's Ordinance Committee with the Tree Commission. Both recommend its introduction and adoption.  The ordinance formally establishes the Tree Commission as consisting of not more than seven members appointed by the Mayor with the approval of the Council. The Tree Commission is to serve in an advisory capacity over trees, plants and shrubs located in City rights-of-way and public places. The ordinance identifies trees appropriate for right-of-way planting; as well as trees not appropriate for the right-of-ways.  Appropriate spacing for boulevard trees is discussed as are subjects like "topping" trees, injury to trees, etc. The Tree Commission has authority to designate landmark trees due to species rarity, old age, association with an historic event or person, abnormally great scenic enhancement or beauty. A permit process is established for the removal of trees in the public right-of-ways.  Generally speaking, the ordinance identifies trees as a public asset in the community and establishes methods to maintain, protect and encourage the growth of trees on public spaces.  As an ordinance, two separate readings are required on this matter. The first reading took place at the Council meeting of Wednesday, January 2, 1991. Final action could occur at this time.
See 17856 Ordinance for Tree Commiss.	It was moved by Councilman Rudy Linke, seconded by Councilman Rick Linke, to adopt an ordinance establishing a Tree Commission and the authority and duties of that Tree Commission relating to municipal trees. - All present voting in favor, 5-0.
	<p style="text-align: center;">AN ORDINANCE ESTABLISHING A TREE COMMISSION AND THE AUTHORITY AND DUTIES OF THAT TREE COMMISSION RELATING TO MUNICIPAL TREES</p> <p><u>SECTION 32.30 Purpose.</u> It is the purpose of this Ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees in the street rights-of-way within the City of Manistee as trees contribute to beautification, air cooling and purification, noise abatement, property value enhancement, and present a public asset enhancing the quality of life in Manistee.</p> <p><u>SECTION 32.31 Tree Commission Established.</u> There is hereby created and established a Tree Commission for the City of Manistee which shall consist of not more than seven members who shall be appointed by the Mayor with the approval of the Manistee City Council. Members of the Tree Commission will meet quarterly or at the request of the City Council, the City Manager, or his designate.</p> <p><u>SECTION 32.32 Term of Office.</u> The terms of persons appointed to the Tree Commission shall be three years except that the term of three members to be appointed to the first Tree Commission shall be for only two years and the term of the remaining members first appointed shall be three years. All members may be appointed for a second three year term after which appointment to the Tree Commission cannot be made for the member until one calendar has past. The terms for the Tree Commission members shall begin on January 1 of each year.</p> <p><u>SECTION 32.33 Applicability.</u> This Ordinance provides that the Tree Commission shall serve in an advisory capacity over trees, plants and shrubs located within the City rights-of-way, parks and public places of the City of Manistee, and to trees, plants and shrubs located on private property that constitute a hazard or nuisance as described therein.</p> <p><u>SECTION 32.34. Definitions.</u></p>
	<ol style="list-style-type: none"> <li>1. Street Right-of-Way: A public or private way dedicated for public purposes, generally between the sidewalk and the curb, where sidewalks exist.</li> <li>2. Public Nuisance: A tree, shrub, plant part located anywhere upon public or private property which interferes with the clear view of traffic by drivers approaching an intersection; and any tree, shrub, plant or plant part afflicted with any dangerous or infectious insect infestation or disease.</li> </ol>

Ordinance  
for Tree  
Commiss.  
(Contd.)

3. Topping: Means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and/or disfigure the tree.

SECTION 32.35 Landscaping. In the case of all new construction in the City of Manistee, the Tree Commission will advise the City and the party undertaking the construction on the protection of trees in the street rights-of-way at the construction site.

SECTION 32.36 Tree Planting, Maintenance and Removal.

a.) Tree Species. The Tree Commission will develop and maintain a list of desirable trees for planting along streets in three size classes; small, medium and large. The Tree Commission will provide upon request a list of trees which can and cannot be planted in the street rights-of-way. Species prohibited in street rights-of-way shall include any tree of the species of Box Elder (*Acer negundo*), Silver Maple (*Acer saccharinum*), Horsechestnut (*Aesculus hippocastanum*), Tree of Heaven (*Ajilabthus altissima*), White Birch (*Betula papyrifera*), Catalpa (*Catalpa* species), Mulberry (*Morus*), Poplar (*Populus* species including Cottonwood), Black Locust (*Rubinia pseudoacacis*), Willows (*Salix* species), Siberian Elm (*Ulmus pumila*), American Elm (*Ulmus americana*), Red Maple (*Acer rubrum*).

Any tree planted in the street rights-of-way area which is on the list of prohibited trees will be removed at the property owner's expense at the request of the Tree Commission. EXISTING PLANTED TREES are exempted from this requirement.

b.) Spacing. The spacing of street trees in the street rights-of-way will be in accordance with the three species size classes listed in this Ordinance, and no trees may be planted closer together than the following: Small trees, 20 feet; medium trees, 30 feet; large trees, 40 feet; except the special plantings designed or approved by a landscape architect and the Tree Commission. Any tree planted must be centered in the street rights-of-way and be 30 feet from any intersection or as approved by the City Manager or his designate.

c.) Topping. It shall be unlawful for any firm, person or City department to top any street tree, park tree or other tree on public property including street rights-of-way. Trees severely damaged by storm or other causes which require immediate remedy may be exempted from this provision at the determination of the City Manager or his designate. Trees under utility wires or other obstructions where the wire area cannot be cleared in a six foot diameter through the tree may be exempted from this Ordinance at the determination of the Tree Commission.

SECTION 32.37 Injury to Trees. No person shall plant, remove, mutilate, cut above the ground or disturb any tree in the boulevard area or any other public property without first procuring a permit from the Tree Commission. In the event that a person makes proper application for a tree permit including providing all necessary information and the Tree Commission fails to act on that application within 30 days from the date of submission, the application shall be considered approved. The City shall be exempt from these permit provisions in the exercise of its normal tree maintenance program on condition that the Tree Commission has had an opportunity to review and advise on that tree maintenance program.

SECTION 32.38 Landmark Trees. The Tree Commission shall have the duty to locate, select and identify any trees which meet the definition of landmark trees. A tree may qualify as a landmark tree if it meets one or more of the following criteria: species rarity, old age, association with an historical event or person, abnormally great scenic enhancement or beauty.

SECTION 32.39 Private Trees. Subject to the due process of law, the City Manager or his designate may enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance, and if a public nuisance exists to take appropriate action including but not limited to trimming or removing the tree, shrub, plant or plant part so as to abate the nuisance. Any costs of nuisance abatement on private property shall be the responsibility of the owner of that property and may be made a lien against that property.

SECTION 32.40 Permits. A permit is required from the Tree Commission before any person may remove or prune trees in the public right-of-ways.

SECTION 32.41 Enforcement. On request of the Tree Commission or on his own authority, the City Manager or his designate shall have the power to promulgate and enforce rules, regulations, and specifications concerning the trimming, spraying, removal, planting and protection of trees, shrubs and other plantings in the street rights-of-way or on any public property; subject to the approval of the Manistee City Council.

SECTION 32.42 Violations. Any person who violates any provision of this Tree Ordinance or who fails to comply with any notice issued pursuant to the provisions of the Ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$100 for each separate offense. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this Ordinance, the injury, mutilation or death of a tree in the City right-of-way or on City property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation.

SECTION 32.43 Ex-Officio Duties. The Tree Commission will recommend to the City Council areas for beautification and improvement of the City's landscape. The Tree Commission will recommend to the City Council areas for beautification and improvement of the City's landscape. The Tree Commission will serve as a group to provide information and to answer questions pertaining to trees from City property owners. The Tree Commission will provide advice on pruning in street rights-of-way by private property owners if a permit has been granted for same. The Tree Commission will provide information concerning trees to the public via the media. The Tree Commission will provide advice to City personnel on the planting, pruning and care of right-of-way trees or any plantings on public property.

ADOPTED BY THE MANISTEE CITY COUNCIL: JANUARY 15, 1991