

**TREE ORDINANCE
CITY OF BUCHANAN, MICHIGAN
ord. no. 228 eff. Dec. 26, 1975**

An ordinance regulating the planting, maintenance, and removal of trees in the public streets, parkways, and other municipal-owned properties: Establishing a Master Street Tree Plan prescribing regulations relating to the planting, maintenance, and removal of trees in public places: Providing for the issuing of permits for the planting, maintenance, and removal of trees in public places: Providing for the pruning and removal of trees on private property which endanger public safety: And prescribing penalties for violations of its provisions.

THE CITY OF BUCHANAN ORDAINS:

35.211 Sec. 1. SHORT TITLE.

This ordinance shall be known and may be cited as the Municipal Tree Ordinance of the City of Buchanan.
(ord. no. 228 eff. Dec. 26, 1975)

35.212 Sec. 2. DEFINITIONS.

- I. **MUNICIPAL ARBORIST** is the Superintendent of the Department of Parks & Cemetery, or other qualified designated official of the City of Buchanan, assigned to carry out the enforcement of this ordinance.
- II. **PERSON** is any person, firm, partnership, association, corporation, company, or organization of any kind.
- III. **STREET** or **HIGHWAY** means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- IV. **PARK** shall include all public parks having individual names.
- V. **PUBLIC PLACES** shall include all other grounds owned by the City of Buchanan.

- VI. **PROPERTY LINE** shall mean the outer edge of a street or highway.
- VII. **TREELAWN** is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
- VIII. **PUBLIC TREES** shall include all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise designated.
- IX. **LARGE TREES** are designated as those attaining a height of forty-five (45) feet or more.
- X. **MEDIUM TREES** are designated as those attaining a height of thirty (30) to forty-five (45) feet.
- XI. **SMALL TREES** are designated as those attaining a height of twenty (20) to thirty (30) feet.
- XII. **PRINCIPAL THOROUGHFARE** shall mean any street upon which trucks are not prohibited.
- XIII. **PROPERTY OWNER** shall mean the person owning such property as shown by the County Auditor's Plat of Berrien County, State of Michigan.
(ord. no. 228 eff. Dec. 26, 1975)

35.213 Sec. 3. DUTIES.

The Municipal Arborist shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice* governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the City of Buchanan. He shall cause the provision of this ordinance to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the municipality.

(ord. no. 228 eff. Dec. 26, 1975)

*(see 35.230)

35.213A Sec. 3A. CITY TREE BOARD ESTABLISHED.

By the terms of this amendment to Ordinance No. 228, there is hereby created and established a City Tree Board for the City of Buchanan, Michigan, which shall consist of three members, residents of the City of Buchanan, who shall be appointed by the Mayor, with the approval of the City Commission.
(ord. no. 228 eff. Dec. 26, 1975; amend by ord. no. 255 eff. Jan. 10, 1980)

35.213B Sec. 3B. CITY TREE BOARD; THE TERM OF OFFICE.

The term of appointment of a member of the City Tree Board shall be three (3) years, except that with regard to the first Board appointed pursuant to this amendment, said term of office shall be one (1) year for two of the members, and two (2) years for the third member, and future members shall be appointed for a three (3) year term. In the event that a vacancy should occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.
(ord. no. 228 eff. Dec. 26, 1975; amend. by ord. no. 255 eff. Jan. 10, 1980)

35.213C Sec. 3C. CITY TREE BOARD; COMPENSATION.

Members of the Buchanan City Tree Board shall serve without compensation.
(ord. no. 228 eff. Dec. 26, 1975; amend. by ord. no. 255 eff. Jan. 10, 1980)

35.213D**Sec. 3D. CITY TREE BOARD; RESPONSIBILITY.**

It shall be the responsibility of the Board to work in conjunction with the Municipal Arborist in carrying out the responsibilities of the arborist pursuant to Ordinance No. 228, and it shall be the further responsibility of the Board to study, investigate, counsel, and develop, and in their discretion update annually and generally administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in all public areas of the City of Buchanan. Such plan will be presented annually to the City Commission and upon their acceptance and approval, shall constitute the official comprehensive City Tree Plan for the City of Buchanan, Michigan. From time to time, when requested by the City Commission, the Board shall consider, investigate, make findings, report and make any recommendations upon matters pertaining to its responsibilities.

(ord. no. 228 eff. Dec. 26, 1975; amend. by ord. no. 255 eff. Jan. 10, 1980)

35.213E**Sec. 3E. CITY TREE BOARD; OPERATION.**

The Board shall choose one of its members as the presiding member, make its own rules and regulations, establish a regular meeting schedule and keep a Minute Book of its proceedings. For the purposes of an official meeting of the Tree Board, a simple majority shall constitute a quorum for the transaction of business.

(ord. no. 228 eff. Dec. 26, 1975; amend. by ord. no. 255 eff. Jan. 10, 1980)

35.214 **Sec. 4. AUTHORITY OF THE MUNICIPAL ARBORIST.**

- I. The Municipal Arborist shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.
- II. **SUPERVISION.** The Municipal Arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance.
- III. **CONDITION OF PERMIT.** The Municipal Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this ordinance.
- IV. **MASTER STREET TREE PLAN.** The Municipal Arborist shall have the authority to formulate a Master Street Tree Plan with the advice, a hearing, and approval of the City Commission. The Master Street Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the municipality. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.
 - A. The Municipal Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the municipality.
 - B. **Amend.** The Municipal Arborist, with the approval of the City Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.
(ord. no. 228 eff. Dec. 26, 1975)

35.215 **Sec. 5. PERMITS REQUIRED.**

- I. **PLANTING, MAINTENANCE, OR REMOVAL.**
 - A. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the

Municipal Arborist or otherwise specified municipal authority. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice* adopted by the Municipal Arborist.

- B. Application for permits must be made at the office of the Municipal Arborist not less than forty-eight (48) hours in advance of the time the work is to be done.
- C. **Standards of Issuance.** The Municipal Arborist shall issue the permit provided for herein if, in his judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
- D. Notice of completion shall be given within five (5) days to the Municipal Arborist for his inspection.

II. PLANTING.

- A. **Application Data.** The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.
- B. **Improper Planting.** Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Municipal Arborist to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law.

III. MAINTENANCE.

*(see 35.230)

- A. **Application Data.** The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

IV. REMOVAL, REPLANTING, AND REPLACEMENT.

- A. Wherever it is necessary to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications* are planted in an attractive manner on the adjoining property.
- B. No person or property owner shall remove a tree from the treelawn for the purpose of construction or for any other reason, without first filing an application and procuring a permit from the Municipal Arborist, and without replacing the removed tree or trees in accordance with the adopted Arboricultural Specifications*. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the Municipal Arborist. The person or property owner shall bear the cost of removal and replacement of all trees removed.
(ord. no. 228 eff. Dec. 26, 1975)

35.216 Sec. 6. OBSTRUCTION - TREES PRUNED.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians

*(see 35.230)

on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

- I. **NOTICE TO PRUNE.** Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Municipal Arborist shall order such person or persons, within three (3) days after receipt of written notice, to so prune such trees.
- II. **ORDER REQUIRED.** The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.
- III. **FAILURE TO COMPLY.** When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law.
(ord. no. 228 eff. Dec. 26, 1975)

35.217 Sec. 7. ABUSE OR MUTILATION OF PUBLIC TREES.

Unless specifically authorized by the Municipal Arborist, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
(ord. no. 228 eff. Dec. 26, 1975)

35.218 Sec. 8. INTERFERENCE WITH MUNICIPAL ARBORIST.

No person shall hinder, prevent, delay, or interfere with the Municipal Arborist or any of his assistants while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any Court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.
(ord. no. 228 eff. Dec. 26, 1975)

35.219 Sec. 9. PROTECTION OF TREES.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Municipal Arborist.
(ord. no. 228 eff. Dec. 26, 1975)

35.220 Sec. 10. PLACING MATERIALS ON PUBLIC PROPERTY.

No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the Municipal Arborist.
(ord. no. 228 eff. Dec. 26, 1975)

35.221 Sec. 11. VIOLATION AND PENALTY.

Any person, firm, or corporation violating or failing to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of no less than One Dollar (\$1.00), nor more than Five Thousand Dollars (\$5,000.00), or may be imprisoned for a term not exceeding sixty (60) days, or both.
(ord. no. 228 eff. Dec. 26, 1975)

35.222 Sec. 12. LEGALITY OF ORDINANCE AND PARTS THEREOF.

Should any section, clause, or provisions of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.
(ord. no. 228 eff. Dec. 26, 1975)

35.223 Sec. 13. EFFECTIVE DATE.

This ordinance shall become effective: December 26, 1975.

**ARBORICULTURAL SPECIFICATIONS AND
STANDARDS OF PRACTICE****1. Arboricultural Specifications and Standards of Practice.**

The Municipal Arborist shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality.

A. POLICY.

1. All work on public trees shall comply with the "Municipal Tree Ordinance" of the City of Buchanan.
2. The Arboricultural Specifications and Standards of Practice shall be adhered to at all times, but may be amended at any time that experience, new research, or laws indicate improved methods, or whenever circumstances make it advisable, with the approval of the City Commission.
3. The policy of the Department of Parks and Cemetery shall be one of cooperating with the public, property owners, other municipal departments, and appropriate not-for-profit organizations at all times.
4. No trees shall be removed from public places unless they constitute a hazard to life or property, a public nuisance, or because a revision of planting plans necessitates.

B. SPECIES, CULTIVARS, OR VARIETIES.

1. The Municipal Arborist shall prepare lists of trees acceptable for planting in the public sites of the City of Buchanan. Undesirable trees shall not be recommended for general planting and their use, if any, shall be restricted to special locations where, because of certain characteristics of adaptability or landscape effect, they can be used to advantage.

2. Only desirable, long-lived trees of good appearance, beauty, adaptability, and generally free from injurious insects or disease shall be planted in public sites. The City Commission, in conjunction with the Municipal Arborist, shall review at least once every ten (10) years the species, cultivars, and varieties included on the approved list to determine if any should be removed for any reason or if certain new species, cultivars, or varieties of proven dependability and value should be added.
3. Where street blocks have been assigned a particular species or variety on the Master Street Tree Plan, only these shall be planted subject to revision by the Municipal Arborist and approval by the City Commission.

C. PLANTING.

1. Size.

- a. Unless otherwise specified by the Municipal Arborist, all medium to large deciduous tree species and their cultivars and varieties, shall conform to American Association of Nurserymen Standards and be at least 1 ¼ to 1 ½ inches in diameter six (6) inches above ground level, and at least eight (8) to ten (10) feet in height when planted. The crown shall be in good balance with the trunk.
- b. All small deciduous tree species and their cultivars or varieties, shall be at least five (5) to six (6) feet or more in height and have six (6) or more branches.

2. Grade.

- a. Unless otherwise allowed for specific reasons, all trees shall have comparatively straight trunks, well developed leaders and tops, and roots characteristic of the species, cultivar, or variety showing evidence of proper nursery pruning. All trees must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

3. **Location and Spacing.**

- a. Based on a 40-year cycle, no tree which will attain a trunk diameter greater than twelve (12) to fifteen (15) inches shall be planted in a treelawn less than three (3) to five (5) feet in width. In treelawns less than three (3) feet in width, or where overhead lines or building setback presents a special problem, the selection of site and species shall be determined by the Municipal Arborist.
- b. Where there is a treelawn less than three (3) feet in width, legal steps should be taken to obtain easement rights to plant beyond the sidewalk on private property. Such easements should contain provisions granting the City of Buchanan permission to select, plant, maintain, and remove such trees under the direction of the Municipal Arborist.
- c. Trees shall be planted at least thirty (30) feet from street intersections and at least fifteen (15) feet from driveways and alleys.
- d. No tree shall be planted closer than ten (10) feet of a utility pole.
- e. Spacing of trees should be determined by the Municipal Arborist according to local conditions, the species, cultivars, or varieties used, their mature height, spread, and form. Generally, all large trees shall be planted forty (40) to sixty (60) feet on center; all medium-sized trees shall be planted a minimum of thirty-five (35) feet on center; and all small trees shall be planted a minimum of twenty-five (25) feet on center.
- f. All planting on unpaved streets without curbs must have the special permission of the Municipal Arborist who shall determine the tree's location so it will not be injured or destroyed when the street is curbed and paved.

4. **Methods of Planting and Support.**

- a. Most small deciduous trees may be moved bare-rooted unless otherwise indicated. Roots of bare-rooted trees should be protected against drying out.
- b. All coniferous trees shall be moved balled or burlapped. Balled roots should be prevented from drying out at the surface of the ball and protected against injurious freezing.
- c. Pits dug for planting of bare-root plants shall be a minimum of twelve (12) inches larger in diameter than the diameter of the root system so as to be of sufficient size to accommodate the roots without crowding. For balled trees, the pits shall be a minimum of twelve (12) inches larger in diameter than the diameter of the ball of soil to allow proper backfill.
- d. Plants shall be planted no deeper than previously grown, with due allowance for settling.
- e. In poorly drained soil, artificial drainage shall be provided to properly drain the soil about the plant roots or tolerant species selected.
- f. Acceptable top soil, compost, peat moss or other acceptable soil mixtures shall be placed about the roots, or in the backfill around the ball. When the planting is completed, the entire root area shall be thoroughly saturated with water.
- g. Excessive pruning at the time of transplanting should be avoided. The extent of top pruning should be based on the ability of the plant roots to function.
- h. Trees shall be suitably wrapped and guyed, or supported in an upright position, according to accepted arboricultural practices. The guys or supports shall be fastened so that they will not girdle or cause serious injury to the tree or endanger public safety.

1. **General.**
 - a. Newly planted trees require special attention to maintenance practices during one or two growing seasons following planting. All maintenance practices shall follow approved arboricultural standards.

2. **Watering.**
 - a. Ample soil moisture shall be maintained following planting. A thorough watering each five (5) to ten (10) days, pending on soil type and drainage provisions, is usually adequate during the growing season. A soil auger or sampling tube is used to check the adequacy of moisture in the soil ball and-or backfill.

3. **Fertilization.**
 - a. Provision of good drainage and adequate moisture of the prepared backfill, and the soil ball of balled plants, is more important than fertilization immediately following planting. However, adequate quantities of the essential nutrient elements should be available after new growth starts.

4. **Insect and Disease Control.**
 - a. Measures for the control of insects and diseases shall be taken as shown necessary by frequent and thorough inspections. Plants in a weakened condition following transplanting are often more susceptible to insects, especially borers, and some diseases than are vigorously growing trees. Where it is necessary to spray, insecticides or fungicides shall be used that are recommended for safe and effective control.

5. **Pruning.**

- a. Pruning practices to be followed the first few years following planting shall consist of removing dead, broken, or injured branches, the suppression of rank, uneven growth, and usually the removal of water sprouts. Feather growth shall be removed as it reaches pencil size in diameter.
- b. Pruning shall be practiced subsequent to transplanting and as necessary thereafter to assure sturdy crotch development.
- c. Tree heads should be raised as growth characteristics and location dictates. Newly planted trees need not have lower branches removed until they are well established. Eventually, trees should have the lower branches removed to a height of at least seven (7) feet, unless in areas where lower branches do not impede traffic.

E. GENERAL MAINTENANCE.

1. Pruning and Removal.

- a. No topping or dehorning of trees shall be permitted except by written permission of the Municipal Arborist. Proper cabling and bracing shall be substituted for this practice wherever possible.
- b. All large, established trees shall be pruned to sufficient height to allow free passage of pedestrians and vehicular traffic: Ten (10) feet over sidewalks and twelve (12) feet over all streets except those that are subject to truck traffic which shall have a clearance of sixteen (16) feet.
- c. The Municipal Arborist shall develop a system of tree pruning to give effective street illumination.
- d. All cuts shall be made with a saw or pruner and only at the nodes or crotches. No stubs shall be left. No spurs or climbing irons shall be used in the trees, except when trees are to be removed.
- e. All dead, crossed, and rubbing branches shall be removed.

- f. All wounds over two (2) inches in diameter shall be treated with a suitable tree wound dressing.
- g. All tools being used on a tree suspected to be infected with a contagious disease shall be disinfected before being used on another tree.
- h. Whenever streets are to be blocked off to public service, Police and Fire Departments shall be notified of the location and length of time the street will be blocked. Notification shall be given these departments upon the removal of such barriers or if such barriers are to remain longer than originally expected.
- i. To protect the public from danger, suitable street and sidewalk barriers, highway cones, or signs shall be used when pruning a tree. Flashing signals or flares shall be placed on all barriers or obstructions remaining in the street after dark.
- j. The stumps of all removed trees shall be cut to at least three (3) inches below the ground, and soil shall be replaced and the area leveled. If the area where the tree is removed is to be paved, the tree should be cut or stump removed at least six (6) inches below the ground.

2. Spraying.

- a. Suitable precautions shall be taken to protect and warn the public that spraying is being done.
- b. Spraying shall be done only for the control of specific diseases or insects, with the proper materials in the necessary strength, and applied at the proper time to obtain the desired control. All spraying practices shall conform to federal and state regulations.
- c. Dormant oil sprays shall not be applied to sugar maple, Japanese maple, beech, flowering dogwood, hickory, walnut, and most crabapple trees. Dormant oil sprays shall be applied to other trees only when the air temperature is 40 degrees F or above and when it is not likely to drop below this temperature for a period of twenty-four (24) hours.

3. Fertilization.

- a. Fertilization of public trees shall follow the National Arborist Association or other accepted arboricultural standards.
- b. Formulations, rates, and methods of application of fertilizers shall be specified by the Municipal Arborist.

4. Cavities.

- a. Extensive cavity work should be performed on trees only if they are sufficiently high in value to justify the cost. All cavity work shall conform to the National Arborists Association or other accepted arboricultural standards.

5. Cabling and Bracing.

- a. As a general rule, cables should be placed approximately two-thirds ($\frac{2}{3}$) of the distance between the crotch and top branch ends. Rust-resistant cables, thimbles, and lags should be used. The ends of a cable should be attached to hooks or eyes of lags or bolts, and thimbles must be used in the eye splice in each end of the cable. In no instances shall cables be wrapped around a branch.
- b. All cabling and bracing practices with screw rods shall follow National Arborist Association or other accepted arboricultural standards.

F. AMEND.

The Municipal Arborist shall have the authority to modify, amend, or extend, with the approval of the City Commission, the Arboricultural Specifications and Standards of Practice at any time that experience indicates improved methods or whenever circumstances make it advisable.

(ord. no. 228 eff. Dec. 26, 1975)