

TREES Sec. 29-2.⁵² Ord. 101 adopted May 10, 1982.

⁵³ Ord. no. 201 adopt. May 10, 1982

CHAPTER 29. TREES.⁵²

Sec. 29-1. PURPOSE AND NAME.

The purpose of this Chapter is to provide for the management and protection of trees for the public health, safety and general welfare of the residents of the City and to preserve and promote the City and its landscape resource values. This Chapter shall be known as the Tree Chapter.⁵³

Sec. 29-2. DEFINITIONS.

- A. *Builder* means all property owners who shall engage in new construction in any zoning district of the City.
- B. *City* mean the City of Plainwell, Michigan.
- C. *City Superintendent* means Superintendent of the Department of Public Works or his authorized representative.
- D. *Commission* means the City Parks and Tree Commission established by the City.
- E. *Curb lawn* means that part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.
- F. *Department* means the Department of Public Works of the City.
- G. *Park* includes all public parks having individual names, and all areas, whether owned by the City or not, to which the public has free access as a park.
- H. *Prohibited species* means any tree of poplar (*Populus Sp.*), willow (*Salix Sp.*), box elder (*Acer Negundo*), silver maple (*Acer Saccharinum*), locust (*Robina Sp.*), tree of heaven (*Ailanthus Altissima*), catalpa (*Catalpa Sp.*), mulberry (*Morus Sp.*), Siberian elm (*Ulmus pumila*), birch (*Betula Sp.*), and any other species so determined by the Commission.
- I. *Pruning* means the proper trimming and/or cutting of limbs, branches, and leaves.
- J. *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.
- K. *Street* means all the land lying between property lines on either side of all streets, and highways and public right-of-ways in the City.

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⁵⁴ Amended by Ord. 264 eff. Dec. 16,1990

- L. *Tree*, unless the context clearly indicates otherwise, means tree, shrubs, bushes and all other woody vegetation.
- M. *Tree topping* means the severe cutting back of tree limbs to stubs larger than three (3) inches in diameter within the crown of the tree to such a degree so as to remove the normal canopy and disfigure the tree. "Tree topping" shall also include stubbing, heading, heading-back, stubbing-off, hatracking, topping off, dehorning, lopping and other similar practices.⁵⁴ The provisions of this Chapter, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the City.

Sec. 29-3. TREE AND SHRUB MANAGEMENT.

The planting, maintenance, pruning or removal of trees in places open to the public in the City shall be done by the Department by order of the Superintendent upon recommendation of the Commission. Such action may be initiated by the Commission,

City Superintendent, City Manager, City Council or by petition of parties owning a majority of the lineal footage on the fronting property along a street.

- A. No person shall hereafter plant, transplant, prune or remove any tree on any street, street lawn, park or public place in the City, nor cause such act to be done by others without first obtaining a written permit from the office of the City Clerk. Application for permits must be made not less than seventy-two (72) hours in advance of the time the work is intended to commence and each permit granted shall contain an expiration date not to exceed sixty (60) days from the date of issuance.
- B. Each permit issued by the City Clerk shall describe the work to be done, the number of trees to be removed or planted and the location, size, species or variety of each tree, the method of planting, and other information that the City Superintendent may require to insure that the work will be done properly. Any permit issued will be void if its terms are violated. Whenever any tree shall be planted in conflict with the provisions of the permit, it shall be lawful for the Superintendent to cause removal of the same and the cost for such removal shall be assessed to the permittee as provided by law in the case of special assessments or as otherwise provided herein.
- C. The City Superintendent shall promulgate rules for the proper pruning techniques to be used on trees located on public property or publicly maintained rights-of-way. The rules, and any modifications to the rules, shall be subject to approval by resolution of the City Council. A copy of the rules shall be kept on file by the City Clerk for public inspection.

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Sec. 29-4. BUILDER RESPONSIBILITY.

- A. GENERAL. Builders shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the City of Plainwell and its City Parks and Tree Commission including, but not limited to subdivision regulations and site plan requirements.
- B. MINIMUM PLANTING REQUIREMENTS. One street tree of an approved species measuring at least one and one-half inch (1-1/2") caliper shall be planted on all new construction sites, residential or otherwise, for each site or lot of seventy-five (75') feet or less, and at least two trees for every lot in excess of seventy-five (75') feet frontage. Corner lots shall require at least one tree for each street. The builder shall be responsible for fulfilling these requirements.

Sec. 29-5. PROTECTION OF TREES AND SHRUBS.

It shall be unlawful for any person, firm or corporation to do any of the following acts in any tree lawn, park, publicly maintained right-of-way or other public place:

- A. Fasten any sign, card, poster, wire, rope or other material to, around or through, any tree or shrub or its guard, except in emergencies such as storms or accidents;
- B. Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner;
- C. Permit any fire to burn where such fire will injure any portion of any tree or shrub;
- D. Permit any toxic chemical to seep, drain, or to be emptied on or about any tree or shrub;
- E. Deposit, store, place or maintain, on any street, highway, or other public place, any brick, sand, stone, concrete or other material which may impede free passage of water, air, and fertilizer to the roots of any tree or shrub growing therein;
- F. Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of forty feet of any tree;
- G. Knowingly permit any electrical wires to come into contact with any tree or shrub;
- H. Allow excavations and driveways to be placed within five (5) feet of any tree without written permit from the Superintendent. Any person making such excavation or construction shall guard any tree within six (6) feet thereof with a good substantial frame box to be approved by the Department, and all building materials or other debris shall be kept at least four (4) feet from any tree.

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I. Plant any prohibited species of tree as hereinafter provided herein. Exceptions to this prohibition may be granted by the City Council upon recommendation of the Commission after review on a case-by-case basis.

J Allow the practice of tree topping or any other prohibited pruning technique prescribed.

Exceptions to this prohibition may be granted by the City Council upon recommendations by the Commission after review on a case-by-case basis for trees severely damaged by storms or other natural or accidental causes, or if permitted pruning practices are impractical due to location of a tree under utility wires or because of some other obstruction.

Sec. 29-6. COMPENSATION FOR TREES DAMAGED OR DESTROYED.

Any tree growing on any street, curb tree lawn, park or other public place which is destroyed or damaged to the point where repair or replacement is needed shall be the responsibility of the party responsible for such damage or destruction in an amount necessary to replace or repair the destroyed or damaged trees.

Sec. 29-7. AUTHORITY OF CITY SUPERINTENDENT TO INSPECT TREES ON PRIVATE PROPERTY.

The Superintendent shall have authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects, or diseases are suspected. The Superintendent may remove such specimens as required for analysis to determine the presence of insect, disease, or other detrimental conditions. It shall be unlawful for any person to prevent the Superintendent or agents from entering private property for purposes of carrying out his duties hereunder.

Sec. 29-8. PRIVATE TREES - DISEASE, INSECT, AND OTHER HAZARDS.

A. When the City Superintendent shall discover that any tree growing on private property within the City is afflicted with any dangerous insect, infestation, disease, or condition he shall immediately serve a written notice upon the property owner or his agent describing the tree or trees, their location, the nature of the insect infestation, disease, or condition, and ordering the owner or his agent to take necessary measures to abate the insect infestation or disease or condition, to prevent the spreading thereof, and specifying the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary.

B. Every such notice shall be complied with within a definite time as stated in the notice, but not less than 10 days after service thereof upon the property owner.

C. If at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, the Superintendent shall carry out the requirements of that notice. The cost of completing the work necessary to resolve the condition complained of shall be assessed against the property on the next general assessment roll of the City.

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Ord. 318 adopted Nov. 12, 2001.

Sec. 29-9. TRIMMING AND REMOVAL OF TREES ON PRIVATE PROPERTY.

A. Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a traffic hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove the obstruction from the public street, highway, sidewalk, park, or public place and so as to eliminate the traffic hazard and the menace and the

danger to the public, pursuant to written notice by and under the supervision of the Superintendent.

- B. When such notice is given, the property owner will be given a reasonable and definite time to comply with the order, but not less than ten (10) days.
- C. If the work is not satisfactorily completed within that time, then the Superintendent may enter upon the property, make the necessary trimming or removals, and properly dispose of the same; provided that all or part of the costs involved in the trimming or removal when done by the Superintendent shall be assessed against the property on the next general assessment roll of the City.
- D. 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 street light.

Sec. 29-10. VIOLATIONS AND PENALTIES.

- A. Any person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by Code.
- B. Imposition of a penalty for a violation of this Chapter shall not be construed as a waiver the City's right to collect from a violator the costs of the tree work done by the City which the violator was required to pay, but failed to pay, under the provisions of this Chapter or the right of the City to collect from the violator the value of any tree illegally damaged or destroyed.
- C. The City retains the right to seek and obtain injunctive relief in addition to or as an alternative to the penalties described above in order to promote the purposes of this Chapter.
- D. Each tree for which there is a violation of the provisions of this Chapter shall constitute a separate violation.⁵⁵

Sec. 29-11. ENFORCEMENT AND APPEALS.

The City Superintendent is designated as the enforcing agency to see that the

provisions of this ordinance are obeyed and all complaints as to the violation of this ordinance shall be presented in writing to the City Attorney and shall be prosecuted in the name of the City of Plainwell. If at any time a dispute arises or shall exist relative to or under the provisions of this ordinance, such dispute shall first be submitted to the Commission for review and recommendation.