

## City of Port Huron – Tree Ordinance

### ARTICLE III. VEGETATION\*

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\***State law references:** Care of trees and shrubs, MCL 247.241 et seq.

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#### DIVISION 1. GENERALLY

Sec. 22-141. Prohibited vegetation.

(a) No owner of any lot or parcel of land or any person in possession or control of any lot or parcel of land within the city shall allow or maintain upon any portion of such lot or land any growth of prohibited vegetation defined as grasses, weeds, brush, underbrush, or similar type of vegetation to a height of more than 12 inches or the accumulation of dead grasses, weeds, brush, underbrush, or other similar type vegetation to a height of more than 12 inches, so as to create an unsightly, unhealthy or unsafe condition or fire hazard.

(b) Upon complaint of a violation of this section, it shall be the duty of the chief inspector or his designee to investigate such complaint and the premises complained of. After such investigation, if the chief inspector or his designee determines that the condition of the premises is such to be in violation of this section, he shall issue an order directing the owner or person in possession or control of the land upon which the violation is committed, requiring correction of the violation within ten days after receipt of such order. Such order may be served in accordance with section 2-768.

(c) If any owner of any lot or land or any person having charge of any lot or land in the city shall violate this section and fail to comply with the order described in this section within ten days from the receipt thereof, he shall be deemed responsible for a municipal civil infraction.

(Code 1975, § 35-1; Ord. No. 1089, § 2, 6-12-1995; Code 1992, § 30-1)

Secs. 22-142--22-160. Reserved.

#### DIVISION 2. TREES

Sec. 22-161. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Department* means the parks division of the city.

*Director* means the director, as appointed by the city manager.

*Park* means and includes all public parks having individual names and all areas owned by the city or 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 of 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.

(Code 1975, § 35-13; Code 1992, § 30-26)

**Cross references:** Definitions generally, § 1-2.

#### Sec. 22-162. Applicability.

This division, except as otherwise specifically stated in this division, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Code 1975, § 35-14; Code 1992, § 30-27)

#### Sec. 22-163. Enforcement.

The director shall be charged with the duty of enforcing this division, under the supervision of the city manager.

(Code 1975, § 35-15; Code 1992, § 30-28)

#### Sec. 22-164. Control of trees located in streets and parks.

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 division.

(Code 1975, § 35-16; Code 1992, § 30-29)

**Cross references:** Parks and recreation, ch. 36; streets, sidewalks and other public places, ch. 42.

#### Sec. 22-165. Planting, removing, pruning trees in streets or parks.

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. 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 approval for such removal, that such property owner make the removal in accordance with regulations established by the department, assume all or any part of the costs of removing such tree, and also to require that the tree removed be replaced at some other nearby location by planting another tree, not necessarily of the same type.

(Code 1975, § 35-17; Code 1992, § 30-30)

**Cross references:** Parks and recreation, ch. 36; streets, sidewalks and other public places, ch. 42.

Sec. 22-166. Planting strips on residence streets.

On residence streets, the abutting owner or occupant may 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 division. 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 1975, § 35-18; Code 1992, § 30-31)

**Cross references:** Streets, sidewalks and other public places, ch. 42.

Sec. 22-167. Removal of dead, diseased and prohibited trees generally.

Any and all dead trees and trees afflicted with any fatal or communicable disease shall be removed by the department, with the approval of the city manager. The city manager is hereby authorized to direct the department to remove any tree of a prohibited species.

(Code 1975, § 35-19; Code 1992, § 30-32)

Sec. 22-168. Removal of undesirable trees.

(a) Trees may be removed which are not dead or infected with any disease when such trees are of an undesirable, though not prohibited, species, but only upon notice to the owner of the abutting property. If such owner shall file written objection with the city clerk within 48 hours after service of such notice, a public hearing on such removal shall be had before the city council, and the abutting owner shall be notified of the time and place of the hearing.

(b) The city manager is hereby authorized to direct the department to remove any tree growing within any street, park or public place when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic control devices or construction within street rights-of-way.

(Code 1975, § 35-20; Code 1992, § 30-33)

Sec. 22-169. Destruction of trees afflicted with 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 section 22-176(b). 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 an approved pesticide.

(Code 1975, § 35-21; Code 1992, § 30-34)

Sec. 22-170. Planting regulations.

(a) No tree of any prohibited species shall be planted in any street or park, nor shall any such tree be planted on any private property within 50 feet of any street or sidewalk

right-of-way or any sewer or sewer extension. Shade trees planted in any street right-of-way shall be spaced not less than 40 feet apart, except that trees may be planted less than 40 feet from an existing tree in the right-of-way, provided the existing tree has been approved for removal within a period of two years from the date of planting of the new tree. The owner of a single lot may, in order to provide a shade or ornamental tree in front of his lot, secure special permission from the department to have a tree planted closer than 40 feet from an existing tree, but in no case shall such planting be within 30 feet of any existing tree within the right-of-way.

(b) No tree shall be planted in any planting strip between the street proper and the sidewalk where the distance between the back of the curb and the sidewalk is less than three feet in width. No tree shall be planted nearer to the intersection of any streets than 25 feet from the corner of such intersection.

(Code 1975, § 35-22; Code 1992, § 30-35)

Sec. 22-171. Tree protection generally.

No person shall break, injure, mutilate, kill or destroy any tree or set any fire 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 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, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control facilities which may interfere with the trimming or removal of any tree shall, after notice by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.

(Code 1975, § 35-23; Code 1992, § 30-36)

Sec. 22-172. Excavations and driveways near trees.

Excavations and driveways shall not be placed within six feet of any tree, without a written permit from the director. 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 materials or other debris shall be kept at least four feet from any tree. All persons desiring to make such excavation or construction shall deposit with the city a sum sufficient to cover the cost of inspection and any damage which may result therefrom. Such charge shall not be less than \$2.00 in any case.

(Code 1975, § 35-24; Code 1992, § 30-37)

Sec. 22-173. Impeding passage of water, air or fertilizer to roots.

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 1975, § 35-25; Code 1992, § 30-38)

Sec. 22-174. Protection from gas leaks.

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 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 tree, shall be levied against the owner of the pipe or main causing the damage.

(Code 1975, § 35-26; Code 1992, § 30-39)

Sec. 22-175. Trimming by public utilities.

(a) The city manager shall annually issue permits granting 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.

(b) A permit issued under this section shall require reasonable prior notice to the city before any work is commenced thereunder. However, in an emergency requiring immediate maintenance work on the overhead lines of public utilities, prior notice of commencing work under the permit shall not be required. The term "emergency," as used in this subsection, 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 1975, § 35-27; Code 1992, § 30-40)

**Cross references:** Utilities, ch. 48.

Sec. 22-176. Trees on private property generally.

(a) 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 the streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. 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. 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. 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 25 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 three feet above the surface of the roadway, 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 in this area, provided all branches are trimmed to maintain a clear vision for a vertical height of 14 feet above the roadway surface.

(b) When the director 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, 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.

(c) If the owner, agent or occupant of the property shall feel himself aggrieved at an order of the director 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) If the owner, agent or occupant of the property refuses to carry out the order of the director within the time limit or, in case of an appeal, within five days after the council shall have affirmed such order, the director shall carry out the pruning, spraying or destruction of the trees or engage the work to be done 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 30 days after the bill has been rendered, the director shall report the failure to pay to the city council for collection as a single lot assessment against such property in accordance with chapter 40. 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 such spraying necessary on account of any infestation or disease or threat thereof.

(e) The director and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any tree for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree or injury to the tree, if done by the director or under his direction in accordance with this division.

(Code 1975, § 35-28; Code 1992, § 30-41)

Sec. 22-177. Rules and regulations supplemental to division.

The director, subject to the approval of the city manager, shall make such rules and regulations supplementary to this division and not in conflict with this division 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 1975, § 35-29; Code 1992, § 30-42)

Secs. 22-178--22-210. Reserved.

DIVISION 3. NOXIOUS OR POISONOUS WEEDS\*

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**\*State law references:** Control and eradication of noxious weeds, MCL 247.61 et seq.

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Sec. 22-211. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Noxious or poisonous weeds* includes Canada thistles, milkweed, wild carrots, oxeye daisies, ragweed, goldenrod, burdock dodders, mustards, poison sumac, hoary alyssum and poison ivy.

(Code 1975, § 35-41; Code 1992, § 30-66)

**Cross references:** Definitions generally, § 1-2.

Sec. 22-212. Prohibited; duty to cut.

It shall be unlawful for the owner or occupant of any lot or parcel of land within the city to allow or maintain on any portion of such lot or land any growth of any noxious or poisonous weeds which may create a condition detrimental to the public health. The owner or occupant shall cut down all noxious or poisonous weeds during the last half of the month of June and during the last half of the month of August of each year and at such other times as may be necessary to prevent such weeds from going to seed.

(Code 1975, § 35-42; Code 1992, § 30-67)

Sec. 22-213. Publication of notice to cut.

It shall be the duty of the public works director to have published, in a newspaper of general circulation within the city, a notice specifying section 22-212 and requiring the owner or occupant of any lot or parcel of land coming within the terms of such section to cut and destroy all noxious or poisonous weeds upon his land before a certain date, but not less than ten days from the date of the publication of such notice, and giving notice that, upon the failure or neglect of such owner or occupant to comply with such section, the department of public works will cause such weeds to be destroyed and the expense thereof charged against the owner of such land. The failure to publish such notice shall not relieve any person from his responsibility for any violation of section 22-212.

(Code 1975, § 35-43; Code 1992, § 30-68)

Sec. 22-214. Destruction by city.

(a) Where it has been established that noxious or poisonous weeds are present on any lot or parcel of land within the city and the owner or occupant has failed to comply with section 22-212, the public works director shall assign city employees to enter upon such land for the purpose of destroying such growths. The director shall keep an accurate

account of the expense incurred in destroying growths of noxious or poisonous weeds with respect to each parcel of land entered upon therefor.

(b) When the city has incurred expense in the destruction of growths of noxious or poisonous weeds, such expense shall be paid for by the property owner under the single lot assessment procedures provided for in chapter 40.

(Code 1975, § 35-44; Code 1992, § 30-69)

Secs. 22-215--22-245. Reserved.