

## City of Portage – Tree Ordinance

### ARTICLE 6. TREES, SHRUBS AND PLANTS

Sec. 66-231. Permit required for planting in right-of-way or park.

No person shall plant a shade or ornamental tree, plant or shrub in a public right-of-way or park without a permit issued by the director of parks and recreation.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-1; Code 1983, § 1030.01; Ord. No. 088-08, 7-5-1988; Ord. No. 091-01, 1-29-1991)

Sec. 66-232. Trees overhanging streets.

No person shall maintain upon a lot of which he is the owner, either individually or as one of two or more tenants in common, joint tenants or tenants by the entireties, a tree which is so located as to extend its branches over a public alley or street unless the tree is kept so trimmed that there is a clear height of not less than 12 feet above that portion of the surface of the sidewalk unobstructed by branches. No such person shall fail to remove all dead branches or stubs on a tree which is, or may become, a menace to persons on the street.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-2; Code 1983, § 1030.02)

Sec. 66-233. Planting trees near sewers.

No person shall plant a tree of a kind which has or is characterized by hair roots, either upon public or private property, within 20 feet of a public sewer.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-3; Code 1983, § 1030.03)

Sec. 66-234. Obstruction of visibility at intersections.

(a) No person shall plant or maintain a tree, shrub or plant of any kind, or erect or maintain a fence, sign or other type of structure or part of a structure, or place, deposit or leave any material upon, adjacent to or near any part of a street or right-of-way, in a manner that obstructs visibility at an intersection. A violation of this section exists if both of the following conditions apply:

(1) One or more of the objects listed in this subsection are located within an area of land called the safe sight distance. The location of the safe sight distance shall be as determined in A Policy on Geometric Design on Highways and Streets (1995), published by the American Association of State Highway and Transportation Officials, for locally funded projects, and A Policy on Geometric Design of Highways and Streets (1990), published by the American Association of State Highway and Transportation Officials, for federally funded projects.

(2) Such object is so located or of such height and size as to obstruct the driver of a vehicle on one street from a reasonable and timely view of traffic approaching the intersection from another street.

(b) If an obstruction exists within the safe sight distance, the director of transportation and utilities shall serve notice, by first class mail or posting, of the violation on the owner or occupant of the premises where such obstructing object exists. The notice shall

specifically state the location of such obstructing object and shall require the owner or occupant to remove such object or modify it within ten days of the mailing of the notice so that it no longer obstructs the driver of a vehicle from a reasonable and timely view of the traffic approaching the intersection from another street.

(c) A violation of this section shall be considered a nuisance, and any action authorized or permitted by law for the abatement of public nuisances or any other appropriate legal action may be initiated by the city in regard to such violation. In addition, the city may seek imposition of the penalty provided in section 1-7.

(Code 1983, § 1030.04; Ord. No. 088-02, 3-1-1988)

#### Sec. 66-235. Removing or trimming trees.

No person other than city-authorized personnel/contractors or a person operating under an excavation permit issued pursuant to article 5 of this chapter shall remove, destroy, break, cut, deface or trim a tree growing in a public right-of-way or park in the city.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-5; Code 1983, § 1030.05; Ord. No. 088-08, 7-5-1988)

#### Sec. 66-236. Climbing trees.

No person shall climb a tree growing in a public right-of-way or park in the city unless such person is in the act of removing such tree according to the procedures outlined in section 66-235.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-6; Code 1983, § 1030.06; Ord. No. 088-08, 7-5-1988)

#### Sec. 66-237. Protection of trees during building operations.

In the erection, alteration, repair or removal of a building or structure, the owner thereof shall place, or cause to be placed, such guards around all nearby trees on the public streets as will effectually prevent injury to such trees.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-7; Code 1983, § 1030.07)

#### Sec. 66-238. Damaging trees and shrubs.

No person shall do any of the following acts in any public right-of-way, park or other public place:

(1) Fasten any sign, card, poster, rope or other material to, around or through any tree or shrub or its guard.

(2) Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner.

(3) Permit any fire to burn where such fire will injure any portion of any tree or shrub.

(4) Permit any toxic chemical to seep, drain or be emptied on or about any tree or shrub.

(5) Deposit, store, place or maintain 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.

(6) Fail to repair or stop any leak caused by that person occurring in any gas pipe or main within a radius of 40 feet of any tree that could be injurious to the roots of the tree.

(7) Attach any electric or other wire to a tree or shrub, or permit any such wire to come in contact with any such tree or shrub.

(Min. Bk. 1964, p. 122, 11-10-1964; Code 1967, § 18-8; Code 1983, § 1030.08; Ord. No. 088-08, 7-5-1988)

Sec. 66-239. Issuance of permit for planting in right-of-way.

Permits for planting in public rights-of-way shall be issued by the department of community development upon a showing that there will be compliance with all ordinances and a showing that the planting will not endanger property, native plant species and public safety. No person shall plant any shade or ornamental tree, plant or shrub in any public right-of-way until the director of parks and recreation or his appointed representative shall have first approved the kind, size and variety of the tree, plant or shrub, and designated the location thereof, and a permit has been granted for planting the tree, plant or shrub. The city council, by resolution, shall designate fees applicable for such permits.

(Code 1983, § 1030.09; Ord. No. 091-01, 1-29-1991)

Sec. 66-240. Replacement of removed trees.

All trees removed from a city right-of-way, park or other public place shall be replaced with a species approved by the director of parks and recreation or his appointed representative. Such approval shall be given for species that will comply with all ordinances and will not endanger property, native plant species or public safety. All replacement trees must be of a size at least 1 1/2 inches in caliper. The cost of the replacement trees shall be borne by the responsible party.

(Code 1983, § 1030.10; Ord. No. 088-08, 7-5-1988; Ord. No. 091-01, 1-29-1991)

Secs. 66-241--66-260. Reserved.