

City of Kalamazoo, MI

Chapter 42 TREE ORDINANCE*

***Cross references:** Department of Public Services, § 2-299 et seq.; dead trees as nuisances, § 22-3; Parks and Recreation Advisory Board, § 23-29; streets and other public grounds, § 33-1 et seq.

Sec. 42-1. Purpose and intent.

(a) *Purpose*. It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees and shrubs on public places, curblawns and street rights-of-way within the City of Kalamazoo.

(b) *Intent*. It is the intent of the City Commission that the terms of this chapter shall be construed so as to: (1) promote the planting, maintenance, restoration, and survival of desirable trees and shrubs on public places, and street rights-of-way within the city; (2) provide protection from personal injury and property damage to individuals, corporations, and other businesses caused or threatened by the improper planting, maintenance or removal of trees and shrubs, on public places, and street rights-of-way within the city; and, (3) to plant, remove and replace trees or shrubs within curblawns, upon request, to the extent the annual budget will allow.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-2. Applicability.

This chapter provides complete power and authority over all trees and shrubs located within the street rights-of-way, parks, cemeteries, curblawns and other public places of the city; and to trees and shrubs located on private property that constitute a hazard or threat to the safe use by the public of any street, sidewalk or public place in the city.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-3. Definitions.

City tree means any tree planted or growing on City-owned or maintained property.

Curblawn means the part of a street right-of-way, not covered by sidewalk or paving, lying between the sidewalk proper and the curb or outside edge of the street.

Dripline means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Large trees means those trees which attain a height of forty-five (45) feet or more at maturity. Examples of large trees include but are not limited to: ash, green and white; linden; maple, sugar, red and norway; sweetgum, tulip; ginkgo and oak.

Medium trees means those trees which attain a height of thirty (30) to forty-five (45) feet at maturity. Examples of medium trees include but are not limited to: golden rain,

hawthorn, Japanese tree lilac, Bradford pear, redspire pear, aristocratic pear, hybrid locust and Columnar Norway Maple.

Property owner means the individual or party owning such property as shown on the Kalamazoo City Assessor's records.

Public place means property owned by the City of Kalamazoo.

Shrub means a low growing, multi-stemmed woody perennial.

Small tree means those trees which attain a height of less than thirty (30) feet at maturity. Examples of small trees include but are not limited to: flowering crabapple, amur maple and flame maple.

Street tree means any tree located on a street right-of-way or curblawn, but in most cases between the sidewalk and the street.

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

Tree means a plant which can be grown with a single stem or trunk and is over ten (10) feet in height.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-4. Tree committee.

A tree committee shall be created and membership shall include representation from the Parks and Recreation Advisory Board, the Environmental Concerns Committee, overhead and underground utility companies and the Public Services Department. The purpose of the Tree Committee is to develop guidelines, subject to City Commission approval, related to the implementation and enforcement of the tree ordinance and recommend modifications or changes as might become necessary to the Director of Public Works.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-5. Landscaping.

In new subdivisions or when the development of commercial property occurs by private enterprise, landscaping plans shall be submitted to the Public Works Director or his/her designee who shall review the plans and may require the developer to plant trees along any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-6. Tree planting, maintenance and removal.

(a) *Tree planting.*

(1) *[Prohibited trees.]* The owner of property abutting any street may, upon obtaining prior written permission from the Public Works Department, plant trees in the curblawn and street rights-of-way after which they shall become a city tree. The following species shall not be planted in the aforementioned locations: Populus Spp., (White Poplar or Aspen); Acer Negunda, (Box Elder); Ailanthus Altissima, (Tree of Heaven); Catalpa, (Catalpa); Ulmus, (American, Winged, Slippery, Rock, Cedar, and Siberian elm); Juglans, (English Walnut, Butternut, Black Walnut); Robinia Pseudoacacia, (Black Locust); Salix Alba, (Willow); Abies, (Fir); Alnus, (Alder); Betula Spp., (Paper Birch,

Yellow Birch, Sweet Birch, River Birch, and Gray Birch); Juniperus, (Common Juniper); Taxus, (Yew); Thuja, (Cedar); Sassafras Albidum, (Sassafras); Elaeagnus Angustifolia, (Russian-Olive); Maclura Pomifera, (Osage-Orange); Morus Alba, (Mulberry); Prunus Serotina, (Black Cherry); Ginkgo Biloba, (Ginkgo or Maidenhair--female sex).

(2) *Spacing.* No trees shall be planted closer together than the following: small trees, twenty-five (25) feet; medium trees, thirty-five (35) feet; and large trees, forty-five (45) feet. Special landscape plantings may be excepted from this provision upon written approval by the Public Works Department.

(3) *Utilities.* No street trees other than those species listed as small or medium trees may be planted under or within ten (10) lateral feet of any overhead primary electric wire.

(4) *Distance from curb and sidewalk.* No trees may be planted any closer to any curb or sidewalk than the following distances: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

(5) *[Exempt trees.]* Trees planted prior to the enactment of this chapter are exempt from the spacing provisions of this section.

(b) *Trees and shrub maintenance.*

(1) *City trees.* All maintenance performed on trees located in public places, curblawns and street rights-of-way will be performed by the City or its agent unless an exemption is made in writing by the Director of Public Works. Pruning will be conducted according to the National Arborist Association's Pruning Standards for Shade Trees, revised 1988. Future revisions to the National Association's Pruning standards will be accepted as the current revised standard.

The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks and fifteen (15) feet over all street except major thoroughfares which shall have a clearance of sixteen (16) feet.

(2) *Street corner clearance and other visual obstructions.*

a. No property owner shall maintain on their property any tree, shrub, hedge or other vegetation at a height greater than three (3) feet above the surface of the street within a distance of twenty-five (25) feet from the street right-of-way line or as otherwise determined by the city traffic engineer at an intersection corner. No person shall maintain any tree, shrub, hedge or other vegetation anywhere on his/her property which interferes with the clear view of traffic of drivers approaching an intersection.

b. Failure to prune trees, shrubs, hedges or other plantings as required in subsection (2)(a) above may result in a written notice to comply from the Director of the Public Works Department.

c. The written notice to comply shall be served by certified mail to the last known address of the property owner.

d. The property owner shall have twenty-one (21) days from receipt of the notice to comply. Prosecutions for violations of this section may be commenced by issuance of an appearance ticket. The director of Public Works or his/her designee is authorized to issue and serve such appearance tickets.

e. Any tree, shrub or other planting planted on private property but physically obstructing by overhang or other means the public right-of-way, public street or sidewalk

or obstructing street lights, traffic signs or the vision of vehicular traffic shall be pruned by the city in accordance with this section.

(3) *Abuse or mutilation of trees.* Unless specifically authorized by the Director of Public Works, or by ordinance, no person, firm, or corporation shall damage, cut, carve, transplant or remove any city tree or street tree nor attach any rope, wire, nails, advertising poster or other contrivance, nor allow any substance which is harmful to such trees to come in contact with them, nor set fire, nor permit any fire to injure such trees.

(4) *Trenching.* Open trenching for new utility lines and services in the curblawn, street right-of-way, or public place shall not occur within one-half the crown radius of the tree and never closer than one foot of any tree. Boring will be required within those limits.

(5) *Placement of materials.* No person, firm, or corporation shall deposit, place, store or maintain upon any public place, curblawn or street right-of-way for more than fifteen (15) days any stone, brick, sand, concrete, or other materials within the dripline of any tree which may impede the free passage of water, air or fertilizer to the roots of any tree, except by written permit of the Director of Public Works.

(6) *Overhead tree pruning by utility companies.* All line clearance tree trimming or other construction work requiring tree trimming to trees located in public places, curblawns or street rights-of-way by any utility shall be conducted in accordance with the standards set forth in section 42-6(b). Acts of God, the loss of utilities services due to weather and like emergencies constitute an exception to this subsection.

For nonemergency trimming of trees by a utility company, the utility shall provide written notice to the Director of Public Works at least fifteen (15) days in advance of the tree trimming. Said notice shall provide the exact location of the proposed trimming. Trimming shall be conducted in accordance with the ordinance and the direction of the Director of Public Works.

Line Clearance distances shall be:

TABLE INSET:

	Primary (in Feet)	Secondary (in Feet)	Transmission (in Feet)
Top Trimming	- 5 to 7	1 to 3	6 to 8
Side Trimming	- 4 to 6	1 to 3	10 to 14
Over Trimming	- 6	1 to 3	None

Utility companies shall provide notice to adjacent house addresses of residents prior to curblawn tree pruning activities for nonemergency trimming.

(7) *Topping.* No person, utility or other party may top any street tree, City tree or tree located at a public place. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this subsection at the determination of the Director of Public Works.

(c) *Tree removal.* Only the City or its agent may remove street trees or city trees. Any other person requesting to remove street trees or city trees must obtain a permit from the Public Works Department. City trees and street trees may be removed for the following reasons only:

- (1) Where the tree is at least ninety (90) per cent dead;
- (2) Where the tree constitutes a public hazard;
- (3) Where the tree is diseased;
- (4) Where the trees are planted too closely together;
- (5) Where necessary for the installation of public streets, infrastructure improvements or driveways after review by the Tree Committee and the Director of Public Works; or
- (6) Where unique circumstances exist, and request is made for the removal upon the recommendation of the Tree Committee and the Director of Public Works.
- (7) Trees whose roots lift sidewalks or driveways shall not be removed unless it is not possible to remedy the problem by relocating the sidewalk or by cutting and removing roots. Contractors shall provide fifteen (15) days notice to the Director of Public Works before commencing such operation. Street trees may not be removed for the installation of new driveways without a permit from the Department of Public Works.
- (8) Trees shall not be removed for the sole reason that the tree roots are clogging the sewers.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-7. Permit.

(a) Unless otherwise permitted by this chapter, no person, firm, or corporation may perform any of the following acts on curb-

lawns, street rights-of-way or public places without first obtaining a permit from the Department of Public Works.

- (1) Plant trees or shrubs.
 - (2) Remove trees or shrubs.
 - (3) Trim trees or shrubs.
 - (4) Spray trees or shrubs.
 - (5) Tree surgery.
- (b) The person, firm, or corporation receiving such permit shall abide by the specifications and standards of practice in this ordinance, and shall as a condition of such permit agree to hold the City harmless from any and all liability which might result from the work or activity authorized. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts as prescribed by the City for bodily injury and property damage indemnifying the City or

any person injured or damaged resulting from the pursuit of such activities as herein described.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-8. Enforcement authority.

The responsibility for enforcement of this chapter shall be vested in the Director of Public Works or his/her designee. Prosecutions for violations of this chapter may be commenced by issuance of an appearance ticket. The Director of Public Works or his/her designee is authorized to issue and serve such appearance tickets. A party found to be in violation of this chapter may be subject to fines and costs up to five hundred dollars (\$500.00) and/or ninety (90) days in jail.

No person, firm, or corporation shall hinder, prevent, delay or interfere with the Director of Public Works, City employees or agents of the City engaged in the implementation or enforcement of this chapter. However, nothing herein shall prohibit an interested party from pursuing any legal remedies to which they might have a right.

(Ord. No. 1542, § 1, 8-31-92)

Sec. 42-9. Appealability.

With the exception of appearance tickets, any enforcement or permitting requirement of this chapter may be appealed in writing to the City Manager's Office.

(Ord. No. 1542, § 1, 8-31-92)