

# VILLAGE OF MACKINAW CITY – TREE ORDINANCE

**35.450 TREE ORDINANCE VILLAGE OF MACKINAW CITY, MICHIGAN ord. no. 118 eff. Feb. 20, 1993**

**35.451 Sec. 10-4.11(a). DEFINITIONS.**

- (1) **Street trees:** "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land laying between property lines on either side of all streets, avenues or rights-of-way within the Village.
- (2) **Park trees:** "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks, on public property, and on all areas owned by the Village or to which the public has free access as a park.
- (3) **Large trees:** "Large trees" are defined as those obtaining a height of fifty (50) feet or more.
- (4) **Medium trees:** "Medium trees" are defined as those obtaining a height of more than twenty-five (25) feet but less than fifty (50) feet.
- (5) **Small trees:** "Small trees" are defined as those obtaining a height of less than twenty-five (25) feet.

**35.452 Sec. 10-4.11(b). CREATION AND ESTABLISHMENT OF A VILLAGE TREE BOARD.**

There is hereby created and established a Village Tree Board for the Village of Mackinaw City which shall consist of the three (3) members of the buildings, grounds, and parks subcommittee and two (2) at large members appointed by the Village President and confirmed by the Village Council.

(ord. no. 115 eff. Nov. 15, 1990)

**35.453 Sec. 10-4.11(c). TERM OF OFFICE.**

Members of the Village Tree Board shall serve until their successor has been appointed.

(ord. no. 115 eff. Nov. 15, 1990)

**35.454 Sec. 10-4.11(d). COMPENSATION.**

Members of the Board shall serve without compensation.

(ord. no. 115 eff. Nov. 15, 1990)

**35.455 Sec. 10-4.11(e). DUTIES AND RESPONSIBILITIES.**

It shall be the responsibility of the Board to study, investigate counsel, develop, update and administer a plan for the care, preservation, pruning planting, replanting removal or disposition of street trees and park trees.

The board, when requested by the Village Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.456 Sec. 10-4.11(f). STREET TREES SPECIES TO BE PLANTED.

The species set forth in this section shall constitute the official street tree species for Mackinaw City. No species other than those included in this section may be planted as street trees without written permission of the Village Tree Board.

##### LARGE TREES (50' OR MORE)

Superform Maple (*Plantanoides* "Superform")

Sugar Maple (*Saccharum* Hard Maple)

Marshall Seedless Green Ash (*Pennsylvania lanceolata*)

Shademaster Honeylocust (*Gleditsia triacanthus inermis* "Shademaster")

Skyline Honeylocust (*Tricanthois inermis* Skyline)

##### MEDIUM TREES (25' TO 50')

Crimson King Maple (*Plantanoides* "Crimson King")

Royal Red Maple (*Plantanoides* "Royal Maple")

Imperial Honeylocust (*Triacanthos inermis* "Imperial")

##### SMALL TREES (LESS THAN 25')

Eastern Redbud (*Cercis canadensis*)

Flowering Dogwood (*Cornus*)

Allegheny Serviceberry (*Amelanchier laevis*)

A more complete listing of appropriate trees allowed as Village street trees will be held by the Village Tree Board. The Village Tree Board will also be able to utilize their own good discretion in the allowance of trees placed on Village properties.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.457 Sec. 10-4.11(g). SPACING.

The spacing of street trees will be in accordance with the three (3) species size classes listed in Section 10-4.11(f)[35.456], and no trees may be planted closer together than the following: Small trees, thirty (30) feet (9.1m); medium trees, forty (40) feet (12.2m); large trees, fifty (50) feet (16.2m), except as approved in writing by the Village Tree Board.

(ord. no. 118 eff. Feb. 20, 1993)

35.458 Sec. 10-4.11(h). DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Section 10-4.11(f)[35.456], and no trees may be planted closer to any curb or sidewalk than the following: Small trees, two (2) feet (0.61m); medium trees, three (3) feet (0.91m); and large trees, four (4) feet (1.22m).

The only exception to this will be when so authorized by the Village Council during Village streetscape projects which benefit the entire community. Then some discretion will be allowed, but only under a Urban Forester or Landscape Architect's approval.

(ord. no. 118 eff. Feb. 20, 1993)

35.459 Sec. 10-4.11(i). DISTANCE FROM STREET CORNERS AND FIREPLUGS.

No street tree shall be planted closer than thirty-five (35) feet (10.67m) to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet (3.05m) to any fireplug. Again certain discretion will be allowed when so authorized by the Village Council.

(ord. no. 118 eff. Feb. 20, 1993)

35.460 Sec. 10-4.11(j). UTILITIES--STREET TREES.

No street trees other than those species listed as small trees in Section 10-4.11(f)[35.456] of this ordinance may be planted under or within ten (10) lateral feet (3.05m) of any overhead utility wire, or over or within five (5) lateral feet (1.52m) of any underground water line, sewer line, transmission line or other utility.

(ord. no. 118 eff. Feb. 20, 1993)

35.461 Sec. 10-4.11(k). UTILITIES--TREES ON PRIVATE PROPERTY.

- (1) No person shall plant any tree on private property within the Village unless the distance from the center of the trunk of such tree to the nearest street right-of-way line measure six (6) feet or more.

- (2) No person shall plant on private property within the village any tree enumerated in Section 10-4.11(f)[35.456] as small trees within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (3) No person shall plant on private property within the Village any tree enumerated in Section 10-4.11(f)[35.456] as medium trees within ten (10) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (4) No person shall plant on private property within the Village any tree enumerated in Section 10-4.11(f)[35.456] as large trees within fifteen (15) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (5) No person shall plant on private property within the Village any Poplar, Box Elder, Basswood, Willow, Silver Maple, Common Catalpa, Horse-Chestnut, Chinese Elm Tree or "Tree of Heaven" without first obtaining the written approval of the Village Tree Board.
- (6) No person shall plant on private property within the Village any tree not enumerated in Section 10-4.11(f)[35.456] and not prohibited in this section within twenty-five (25) lateral feet of any underground water line, sewer line, transmission line or other utility.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.462 Sec. 10-4.11(l). STREET TREE AND PARK TREE CARE.

The Village shall have the right to plant, prune, maintain and remove street trees, park trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and public grounds. The Village Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, cable lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section shall not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with Sections 10-4.11(f)[35.456] through 10-4.11(j)[35.460].

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.463 Sec. 10-4.11(m). TREE TOPPING.

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the Village Tree Board. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter

within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical may be exempted from the provisions of this section by a determination of the Village Tree Board.

(ord. no. 118 eff. Feb. 20, 1993)

35.464 Sec. 10-4.11(n). PRUNING, CORNER CLEARANCE.

Every owner of any tree overhanging any street right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet (2.43m) above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light

along the street from a street light, or interferes with the visibility of any traffic control device or sign.

(ord. no. 118 eff. Feb. 20, 1993)

35.465 Sec. 10-4.11(o). DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The Village shall have the right to cause removal of any dead or diseased tree(s) thereof on private property within the Village, when such tree(s) or part(s) thereof constitute a hazard to life and property or harbor insects or disease that constitute a potential threat to other tree(s) within the Village. The Village Tree Board shall send notice by first class mail to the owner of the private property as appears from the assessment of records, and also a copy of such notice shall be sent by first class mail to the occupant. Removal shall be done by said owners or occupants at their own expense within sixty (60) days after the date of mailing of notice. In the event of failure of owners or occupants to comply with such provisions, the Village shall have the authority to remove said tree(s) and charge the cost of removal on the owners property tax notice. In addition, the Village may elect to recover such amount through Court action.

(ord. no. 118 eff. Feb. 20, 1993)

35.466 Sec. 10-4.11(p). REMOVAL OF STUMPS.

All stumps of street trees and park trees shall be removed below the surface of the grounds so that the top of the stump shall not project above the surface of the ground.

(ord. no. 118 eff. Feb. 20, 1993)

35.467 Sec. 10-4.11(q). INTERFERENCE WITH VILLAGE TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, inventorying, tagging, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this ordinance, or to remove, deface, mutilate or destroy any tree tag or other identifying device attached to any street trees, park trees or trees on private ground by the Tree Board, or any of its agents.

(ord. no. 118 eff. Feb. 20, 1993)

35.468 Sec. 10-4.11(r). RECOVERY OF VALUE OF LOST STREET TREES OR PARK TREES.

(1) Whenever the Village Tree Board shall determine that any street tree or park tree has been impaired, damaged or broken in a manner which will cause immediate or future removal of the tree and that such removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree and the Board shall have knowledge of the person causing said damage, then the Board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the Board, by appraisal.

(2) Whenever the Village Tree Board shall determine that any street tree or park tree has been severed, destroyed or removed, and that such

severing, destruction or removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the Board shall have knowledge of the person causing said damage, then the Board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the Board, by appraisal.

(3) This section shall not be constructed in such a way that the value received by the Village shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the Village Tree Board, such replacement tree to be not less than three (3) inches in diameter measured at the height of six (6) inches above ground. The Village Tree Board shall not be restricted in its choice as to the replacement planting site.

(4) It shall be the duty of the Mackinaw City Police Department, having knowledge of any such damage or destruction to street trees or park trees and having knowledge of the person or persons causing said damage to immediately report this to the Village Tree Board.

(5) It shall be the duty of the Village Tree Board to notify the Village Council of any damage to street trees or park trees for which recovery should be sought under the provisions of this section.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.469 Appeal to village council.

Sec. 10-4.11(s). Any person may appeal any ruling or order of the Village Tree Board to the Village Council, who shall hear the matter and affirm, reverse or amend the decision of the Village Tree Board.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.470 Penalty.

Sec. 10-4.11(t). Any person violating any provision of Section 10-4.11[35.450 et seq.] shall be guilty of a misdemeanor, and upon conviction or a plea of guilty, shall be subject to a fine not to exceed five hundred dollars (\$500.00). Any such fine shall be separate from the recovery of value provided in this section. The maximum amount of the fine herein provided shall in no way limit the amount of the value which may be recovered under the provisions of this section.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.471 Severability.

Sec. 10-4.11(u). If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions of this ordinance.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.472 Effective date.

Sec. 10-4.11(v). This ordinance shall be effective thirty (30) days after adoption by the Village Council.

(ord. no. 118 eff. Feb. 20, 1993)

#### 35.473 (Reserved for future use)

35.474 Repeal of conflicting ordinances.

Sec. 10-4.11(x). Ordinance No. 21, effective June 24, 1901 is hereby repealed.

(ord. no. 118 eff. Nov. 1, 1994; amend. adopt. Sept. 15, 1994)

Adopted: January 21, 1993