

## **CHAPTER 34. TREE REGULATIONS**

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Sec. 3.61. Definitions.

The following definitions shall apply in the interpretation of this chapter:

*Department* shall mean the department of public works of the city.

*Park* shall include all public parks having individual names, and all areas owned by the city to which the public has free access as a park.

*Prohibited species* shall mean any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*) and box elder (*Acer Negundo*).

*Public utility* shall mean 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* shall mean all the land lying between property lines on either side of all streets, highways and boulevards in the city.

*Superintendent* shall mean superintendent of public works.

*Tree* unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.

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.

3.62. Responsibility.

The superintendent shall be charged with the duty of enforcing the provisions of this chapter.

Sec. 3.63. Permits for tree planting, care, removal.

The superintendent 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 chapter. The owner of land abutting on any street may, upon obtaining prior written permission of the superintendent, 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 superintendent is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such tree.

Sec. 3.64. Public tree removal.

The department shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety or to preserve the symmetry and beauty of such public grounds. The superintendent may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the superintendent shall, if practicable, replace the same at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

Sec. 3.65. Spacing of shade trees.

Future plantings of shade and ornamental trees in the streets, parks and public places of the city may be done by the department upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the city council insofar as such rules and regulations do not conflict with any other provisions of this chapter. No future planting of shade and ornamental trees or shrubs in the highways, parks and public places by owners or anyone employed by them shall be permitted without the approval of the Superintendent and in compliance with the following rules as to spacing: Elm trees shall be spaced not less than 40 feet, oak trees not less than 35 feet, and other shade and ornamental trees not less than 30 feet. Provided, however, any 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 plant a shade or ornamental tree within a less distance from an existing tree than the spacing above mentioned, but shall in no case make special planting within 20 feet of any existing shade or ornamental tree located in the street or other public place. No tree shall be planted in parkways between the curb and sidewalk less than three and one-half feet from the curb line, nor less than three feet from the sidewalk; provided, however, where the parkways are less than six feet, six inches in width any trees planted therein shall be located not less than two feet, six inches from the curb and as near midway between the curb and sidewalk as possible. No tree

shall be planted nearer to the intersection of any streets than 20 feet from the corner of such intersection.

Sec. 3.66. Tree protection.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten feet of any tree, 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 or shrub 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 except by special written permit from the superintendent, 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 thereof by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.

Sec. 3.67. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the superintendent. 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 material or other debris shall be kept at least four feet from any tree.

Sec. 3.68. Covering surface near trees.

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.

Sec. 3.69. Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. In the event 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, shrubbery or grass 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 trees, shall be levied against the owner of the pipe or main causing the damage.

Sec. 3.70. Private trees, clearance.

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 any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or right-of-way. Said owners 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 street light, 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.

Sec. 3.71. Corner clearance.

All 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 30 inches in height from top of curb at street level, 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 on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section or section 3.70, shall be notified by the superintendent in the manner provided in section 1.11 of this Code, to do so and such notice shall require trimming in conformity with this section within ten days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done and the cost thereof may be collected from the owner of said property as a single lot assessment in accordance with the City Charter.

Sec. 3.72. Private trees, diseases and infestations.

When the superintendent 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, in the manner specified in section 1.11 of this Code, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent and 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.

Sec. 3.73. "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 superintendent shall learn of the condition and, if on private property, within ten days after notice as specified in section 3.72. 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 a one percent DDT solution in a manner approved by the superintendent.

Sec. 3.74. Appeal.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the superintendent 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.

Sec. 3.75. Private trees, owners failure to comply.

In case the owner, agent and occupant of the property refuse to carry out the order of the superintendent within the time limited, or in case of an appeal, within five days after the city council shall have affirmed such order, the superintendent shall carry out the pruning, spraying or destruction of the trees as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within 60 days after the same has been rendered, the superintendent shall report the same to the city council for collection as a single lot assessment against said property in accordance with the Charter. The superintendent may, without serving the above 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 the same necessary on account of any infestation or disease or threat thereof.

Sec. 3.76. Private trees, inspection.

The superintendent and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, or plant or fruit or injury to the same, if done by the superintendent or under his direction, in accordance with this chapter.

Sec. 3.77. Lawn extensions.

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 chapter. 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.

Sec. 3.78. Overhead lines; trimming permits.

The superintendent shall grant 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 department. Said permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. Provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of said public utilities, prior notice of commencing work under said permit shall not be required. The word "emergency" as used in this section, 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.

Sec. 3.79. Rules and regulations.

The city manager, shall, subject to the approval of the city council, make such rules and regulations supplementary to this chapter and not in conflict herewith, 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 hereunder.

Secs. 3.80--3.89. Reserved.

## CHAPTER 36. TREE REPLACEMENT\*

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\*Editor's note: Ord. No. 331, § 1, adopted Sept. 12, 1994, contained provisions creating a new ch. 36, §§ 3.6.1--3.6.3, to read as herein set out. For purposes of classification, such sections have been redesignated by the editor as §§ 3.100--3.102.

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[Sec. 3.100. Definitions.](#)

[Sec. 3.101. Tree replacement.](#)

[Sec. 3.102. Deposit required.](#)

### Sec. 3.100. Definitions.

The following definitions shall apply in the interpretation of this chapter:

*Activity* shall mean any new residential construction caused by any person located specifically in zoning districts R1-A, R1-B and R1-C.

*City* shall mean the City of Marysville.

*D.B.H.* shall mean diameter at breast height or the diameter in inches of a tree measured at four and one-half feet above the existing grade.

*Department* shall mean city community development department.

*Drip line* shall mean an imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.

*Groundcover* shall mean any low-growing shrubs, woody vegetation, wild flowers and other small herbaceous plants.

*Person* shall mean any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind conducting operations within the city, including all tree removal companies and persons removing trees on behalf of others.

*Remove* or *removal* shall mean the act of removing a tree by digging up or cutting down or the effective removal through damage to the tree or its root system.

*Shrub* shall mean a woody plant of one to 13 feet in height with several erect, spreading or prostrate stems and a general bushy appearance.

(Ord. No. 331, § 1, 9-12-94)

### Sec. 3.101. Tree replacement.

On any site where activity occurs resulting in the removal of a tree, shrub or groundcover, two replacement trees (minimum) shall be planted on that site.

(a) If the width of the building lot, as measured at the road right-of-way, is 60 feet or more, both trees shall be planted in the street boulevard. If under 60 feet, one shall be planted in the boulevard and one shall be planted on the building site.

(b) Replacement shall be pursuant to the replacement chart, used as a general guide, on file in the office of the community development department and shall have a diameter of a minimum size caliper of one and one-half inches.

(Ord. No. 331, § 1, 9-12-94; Ord. No. 374, § 1, 7-9-2001)

**Sec. 3.102. Deposit required.**

Whenever a person shall engage in activity as defined in this section, said person shall first place on file with the department a deposit of \$400.00, which deposit shall be held by the department as follows:

(a) At the expiration of 12 months from the date of the issuance of the permanent occupancy permit the person shall supply evidence of the two trees required by this section to be planted, having been planted and the department upon inspection determines that the trees are alive and healthy and that the requirements of this chapter have been complied with, the department shall refund the deposit.

(b) If at the expiration of the 12 months no such evidence of compliance with the terms of this chapter shall have been received by the department, the department shall remit the said deposit to a city account which use shall be solely for the purchase of and planting of trees in the city.

(Ord. No. 331, § 1, 9-12-94; Ord. No. 374, § 2, 7-9-2001)