

## City of Vassar – Tree Ordinance

### ARTICLE VI. TREES\*

---

**\*Editor's note:** Ord. No. 2004-02, adopted Sept. 13, 2004, amended the Code with the addition of a new chapter 39, sections 39-1--39-12. In order to maintain the alphabetical sequence of chapter titles, the provisions of said ordinance have been codified herein as article VI, sections 38-201--38-212, at the discretion of the editor.

---

#### Sec. 38-201. Powers.

The city council shall designate the city manager or his designee as director for purposes of this article. The director shall have full power and authority over all trees in or planted in parks, streets and public places of the city. The maintenance of such trees shall be subject to such policies as may be adopted. The city shall have the right to revise the policies from time to time as may be required for the proper care of such trees. Implementation of the revised policies shall not occur until it is filed with the department of public works, parks and recreation commission, and is available for public inspection. (Ord. No. 2004-02, 9-13-04)

#### Sec. 38-202. Violation; penalty.

Any person who violates, disobeys, omits or neglects or refuses to comply with any of the sections of this article shall, upon conviction, be guilty of a civil infraction, punishable with a fine not to exceed \$500.00. (Ord. No. 2004-02, 9-13-04)

#### Sec. 38-203. Interference with director; appeals.

(a) *Interference with director.* No person shall prevent, delay or interfere with the director or any of the director's assistants in the execution or enforcement of this article. However, nothing in this subsection shall be construed as an attempt to prohibit a public hearing or any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(b) *Right to appeal to tree board of appeals.*

(1) Any owner of property affected by any notice which has been issued in connection with the enforcement of this article may request and shall be granted a hearing on the matter before the board, provided that such person shall file, in the office of the city clerk, a written petition requesting such hearing and containing a statement of the grounds therefore within 21 days after the day the notice was served, and pay any appeal fee required by resolution of the council.

(2) In order that the provisions set forth in subsection (b)(1) of this section may be reasonably applied and substantial justice done when unnecessary hardship would result

from carrying out the strict letter of this article, a tree board of appeals, referred to in this section as the board, is created. The duty of the board shall only be to consider appeals from the decision of the officials charged with the enforcement of this article sections 38-205 and 38-209--38-212 and to determine in particular cases whether any deviation from the strict enforcement of this article will violate the intent of this article and public health and safety jeopardized.

(3) The board shall consist of three members who shall be appointed by and serve at the will and pleasure of the city manager with appointments confirmed by the city council. The members shall have such qualifications by education and experience as the city manager and council shall consider essential to enable them to act intelligently in matters concerning tree health. The term of office of members of the board shall be for three years with one term expiring per year.

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

(5) Depositing, storing, placing or maintaining on any street or other public place any brick, sand, stone, concrete or other material which may impede free passage of water, air and fertilizer to the roots of any tree.

(6) Failing to erect a suitable protective barrier around trees apt to be injured during any construction.

(7) Knowingly permitting any electrical wires to be attached to any tree.

(8) Digging a trench under or within 15 feet of any tree for the laying of pavement, pipe or conduit.

(9) Driving, parking, hauling or storing any automobile, truck, trailer, boat, motorcycle, snowmobile, motor home or other motorized or wheeled vehicle within 25 feet of a tree in any street, park or public places except while within the clearly delineated travel or parking zones of any street or parking lot. This shall not be construed as to preclude parking on any gravel, concrete, bituminous or unimproved driveway or entryway or operating a motor vehicle on any such surfaced street within 25 feet of such tree.

(10) Moving, spraying, bracing, trimming, doing surgery work, cutting any tree or part thereof.

(11) Constructing or reconstructing a drive or parking area within 15 feet of any tree in a public place.

(Ord. No. 2004-02, 9-13-04)

Secs. 38-204--38-206. Reserved.

#### Sec. 38-207. Public improvements.

(a) Section 38-206 shall not be construed to apply whenever the removal of such trees or any parts thereof shall be necessary for the construction of the sidewalks, streets, alleys, sewers or other public improvement which are authorized by any public governmental agency, after all reasonable attempts to preserve the tree are exhausted.

(b) Whenever any person desires to remove a tree, in whole or part, because of the placing of a public improvement, the person responsible for construction of the public improvement shall obtain prior written permission of director.

(Ord. No. 2004-02, 9-13-04)

Sec. 38-208. Tree planting.

(a) No tree or shrub shall be planted in any street, public place or park until the director shall have first approved the kind, size and variety of tree and designated the location therefore. No prohibited species shall be set out or any other tree unless it shall be free from infectious disease.

(b) The director shall have the authority to plant trees in any street, park or public place, which the director deems adequate for this purpose.

(c) The director shall determine the appropriate species of tree to be planted, considering parkway width, location of underground utilities, height of overhead utilities, spacing of existing trees and traffic visibility requirements.

(Ord. No. 2004-02, 9-13-04)

Sec. 38-209. Loss of public trees; value.

(a) Whenever the director shall determine that a tree in any street, park or public ground has been removed or impaired, damaged broken, severed or destroyed in a manner which will cause immediate or future removal of the tree which is deemed premature and untimely, the director shall assess against the responsible person the value of the tree as determined by a competent forestry professional using the Michigan Forestry and Parks Association Shade Tree Evaluation Guide.

(b) The damages received by the city shall not be less than the cost of the removal of the damaged tree and replacement with a comparable tree as determined by the director.

(c) It shall be the duty of the public safety department having knowledge of such damage or persons causing the damage to immediately report the damage to the director for investigation.

(d) It shall be the duty of the director thereafter to notify the city manager who may initiate appropriate recovery procedures.

(Ord. No. 2004-02, 9-13-04)

Sec. 38-210. Privately owned trees overhanging public grounds.

(a) Any tree not growing in a street, park or public grounds but so located as to extend its branches over a street, sidewalk or other public grounds which is or becomes a menace or danger to the public safety or a traffic hazard shall be trimmed or removed by the owner of the property on which the tree stands, so as to remove the obstruction from the street, sidewalk or public grounds and so as to eliminate the traffic hazard and the menace and danger to the public, pursuant to written notice by the director.

(b) When such notice is given, the owner will be given a reasonable amount of time, but not less than 14 days, to take corrective action. If the work is not satisfactorily completed within that time, the director may make the necessary trimming or removals. The owner or other person to whom the notice was directed shall be notified by mail of the removal or abatement, and the cost incurred for such work, together with a statement that the cost of the work must be paid within 30 days or cost incurred will be charged against such premises.

(Ord. No. 2004-02, 9-13-04)

Sec. 38-211. Public nuisance.

(a) The director, after reasonable notice to the occupant, shall have authority to enter any private lands within the city to make field inspections of trees, including the removal of specimens for laboratory analysis, to determine the presence of infectious diseases, insect infestations or conditions that constitute a hazard to life and property or which constitute a potential threat to other trees within the city.

(b) Any tree or part thereof growing on private property that in the opinion of the director endangers the life, health, safety or property of the public or is determined to harbor infectious diseases or insects that constitute a potential threat to other trees shall be declared a public nuisance.

(c) Whenever any public nuisance exists, contrary to this article, the director shall give notice to the owner or his agent and the occupant of the property describing the tree, its location and nature of the nuisance and ordering the owner, agent and occupant to take such measure as may be reasonably necessary to correct or abate such nuisance and specifying the measures required to be taken.

(d) It shall be unlawful for any person to permit, cause or suffer the existence of a public nuisance from and after 14 days following the date of the notice provided for in this section.

(e) When the notice given is not complied with, the director is authorized and empowered to order the removal or abatement of the public nuisance and shall have authority to call the necessary assistance therefore. Contracted work shall be submitted for bids and approved by the director.

(f) Upon completion of the abatement or removal of the public nuisance, the director shall certify the cost of removal of the public nuisance. The owner or other person to whom the notice was directed shall be notified by mail of the removal or abatement and the cost incurred for such work, together with a statement that the cost of the work must be paid within 30 days or cost incurred will be charged against such premises.

(Ord. No. 2004-02, 9-13-04)

Sec. 38-212. Electric wiring.

(a) It shall be unlawful for any person having notice or knowledge that any wire, cable or other electrical material owned or controlled by any such person is attached to any tree standing in any street, park or public grounds to permit such wire, cable or electrical material to remain so attached for more than five days without proper approval from the director or his designee.

(b) The director shall have power to order removed any wire, conduit or other existing thing that burns or chafes any part of any tree, whether trunk, root or branch, in any street, park or public place.

(c) Nothing within this article shall be construed as conflicting with, impeding or preventing any public utility from installing and maintaining its equipment and providing service within the city.

(Ord. No. 2004-02, 9-13-04)

