

City of Marquette, MI - Tree Ordinance (2008)

CHAPTER 51 - REGULATION OF TREES

51.01 Definitions. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word shall is mandatory and not merely directory. The word may is permissive.

1. **Arborist** shall mean the employee of the City of Marquette currently holding the position bearing that title.
2. **City** shall mean the City of Marquette, Michigan.
3. **Highway** shall be all public road rights of way not included in the definition of STREET.
4. **Master Tree Plan** shall mean the document created as described in this ordinance.
5. **Park** shall include all public lands under the jurisdiction of the Parks and Recreation Department regardless of formal name.
6. **Parks and Recreation Department** shall mean the Parks and Recreation Department of the City of Marquette.
7. **Person** is any person, firm, partnership, association, corporation, company, or organization of any kind.
8. **Property line** shall mean the outer edge of a street or highway right of way.
9. **Property Owner** shall mean the person owning such property as shown in the Marquette City Assessor's Office.
10. **Public Places** shall mean all grounds owned by the City of Marquette and not included in streets or highways or parks.
11. **Public Trees** shall include all trees and shrubs now or hereafter growing on any street, highway, park or other public place including those planted by adjoining property owners.
12. **Street** shall include all streets owned by the city and shall be identified as Major Streets or Minor Street according to the administrative standards of Act 51 of the Public Acts of 1951.
13. **Shrub** shall include all woody stemmed perennial plants other than trees.
14. **Tree** shall include all woody perennial plants having one or more stems. For the purposes of this ordinance the term **tree** shall include shrubs as herein defined. Trees shall be designated by the heights they can attain as follows:
 - LARGE - attaining a height of more than 45 feet.
 - MEDIUM - attaining a height of 30 to 45 feet.
 - SMALL - attaining a height of less than 30 feet.
15. **Treelawn** is that part of a street or highway not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway used for vehicular traffic.

51.02 Administration of this Ordinance.

A. The Public Works Advisory Board shall be the designated body having review and advisory authority for the administration and implementation of this ordinance. Their duties shall be as follows:

1. To study the problems of and to determine the needs of the City in relation to its trees and a planting and maintenance program for them.
2. To consult with the City Arborist and recommend to the City Commission and other bodies and persons the kind and locations for trees to be planted throughout the City.
3. To consult with the Arborist and other qualified people on the development of Arboricultural Specifications and Standards of Practice, and on rules for the implementation of this ordinance.
4. To assist the Arborist, other responsible officials, and the City Commission with the dissemination of news and other information regarding the selection, planting, and maintenance of trees within the City whether on public or private property.

5. To make recommendations to the City Commission as to desirable legislation concerning the tree program and activities within the City.

51.03 Duties of the Arborist.

- A. The Arborist shall have the duty to advise the Public Works Advisory Board on the promulgation of the rules, regulations, arboricultural specifications, and standards of practice governing planting, maintenance removal, fertilization, pruning, and bracing of trees on the streets, parks or other public places, and to assist in the development of the Master Tree Plan.
- B. The Arborist shall have the duty to direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the City according to the adopted standards and specifications.
- C. The Arborist shall have the duty to enforce the provisions of this ordinance and the Master Tree Plan, including the issuance of permits for work on public trees by persons other than City Employees, and the inspection and supervision of such work.
- D. The Arborist shall have the duty to perform planting, maintenance, and removal of trees as shall be directed by his immediate supervisor or indicated in this Ordinance.
- E. In the absence of the Arborist these duties shall be the responsibility of a qualified alternate designated by the City Manager upon consultation with the Public Works Advisory Board.

51.04 Authority of the Arborist.

- A. The Arborist shall have the authority to regulate the planting, maintenance, and removal of public trees.
- B. The Arborist shall have the authority to supervise and inspect all work done under a permit issued in accordance with the provisions of this Ordinance.
- C. The Arborist shall have the authority issue permits as provided for in this Ordinance and to affix reasonable conditions to the granting of such permit as will insure compliance with the provisions of this Ordinance, the Master Tree Plan, and specifications and standards adopted pursuant to this Ordinance.
- D. The Arborist shall have the authority to enforce this ordinance, the Master Tree Plan, and specifications and standards adopted pursuant to this Ordinance.
- E. The Arborist shall have the authority to plant, maintain, and remove trees as directed by his immediate supervisor, or as indicated in this Ordinance.
- F. The Arborist shall have the authority to assist the Public Works Advisory Board with the formulation of the Master Tree Plan, amendments to this Ordinance, and the formulation and alteration of the Arboricultural Specifications and Standards of Practice adopted pursuant to this Ordinance.

51.05 The Master Tree Plan.

- A. The Public Works Advisory Board, with the assistance of the arborist shall formulate a Master Tree Plan.
- B. The Master Tree Plan shall specify the species and location of trees to be planted along streets, in parks, and in other public places.
- C. The Master Tree Plan shall contain a long term maintenance plan for trees along streets and in public places.
- D. In formulating the Master Tree Plan the Public Works Advisory Board and the Arborist shall give consideration to the following:
 1. The location and extent of existing and probable future utilities both above and below ground.
 2. Long range plans for street and sidewalk development and reconstruction.
 3. The acceptability of the tree species to the neighborhood and the City in terms of aesthetics, function, utility, longevity, and maintenance.
 4. The cost of a long term maintenance plan for the various species of trees.
 5. Existing landscaping plans for adjoining areas.
- E. The Public Works Advisory Board shall hold at least one public hearing to receive

comment on the content of the plan before its adoption. Following adoption of the plan it shall be forwarded to the Planning Commission for its consideration and adoption as a part of the City Master Plan.

F. The Master Tree Plan may be amended from time to time as considered necessary by the Public Works Advisory Board. All such amendments shall be reported to the Planning Commission for incorporation into the City Master Plan.

51.06 Permits Required.

A. Planting, Maintenance, or Removal. No person shall plant, prune, remove, or otherwise disturb any tree on any street or city property without first filing an application and procuring a permit from the City Arborist. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Public Works Advisory Board.

B. Application for permits must be made at the City Arborist's office not less than five working days in advance of the time the work is to be done.

C. Standards of Issuance.

1. The Arborist shall issue the permit provided for herein if, in his judgment, the proposed work is desirable and the proposed method and workmanship are of a satisfactory nature.
2. Any permit granted herein shall contain a definite date of expiration.
3. The work described in the permit shall be completed in the time allowed and in the manner therein described.
4. Any permit shall be void if its terms are violated.

D. The Arborist shall be notified within five days of the completion of the work specified on a permit so that he may make a final inspection.

51.07 Adoption of Arboricultural Specifications and Standards of Practice.

A. The Public Works Advisory Board, with the assistance of the Arborist, shall develop and adopt Arboricultural Specifications and Standards of Practice which shall govern as rules for the planting, maintenance, removal and replacement of trees in public places in the City.

B. In adopting these rules the Board and the Arborist shall give consideration to the following:

1. The minimum and maximum size of trees that should be planted in the various locations specified in the Master Tree Plan.
2. The full growth form and size of trees and the effects upon adjoining trees and property.
3. The location and spacing of trees to be planted.
4. Methods of planting and support of trees.
5. Maintenance methods and techniques for trees including but not limited to watering, fertilization, insect and disease control, and pruning.

C. These rules shall be the sole rules, along with the Master Tree Plan and this Ordinance, for the planting, maintenance, removal, and replacement of trees in the City.

D. Copies of these rules shall be available for public inspection in the offices of the City Arborist and the City Clerk.

E. The Public Works Advisory Board with the consultation of the Arborist shall have the Authority to amend these rules from time to time as they determine necessary.

51.08 Adherence to Standards.

A. Planting. Any person planting or otherwise placing a tree on any street right of way or other public place shall do so in conformity with the rules and standards adopted pursuant to this ordinance.

B. Improper Planting. Whenever any tree shall be set out in conflict with the provisions of this ordinance it shall be lawful for the Municipal Arborist to remove or order removal of the same, and the cost thereof shall be assessed to the adjoining property owner as provided by law in the case of special assessments.

C. Maintenance. Whenever any public tree is to be sprayed, fertilized, pruned, or

otherwise maintained under a permit issued by the Arborist, all such work shall be done in accordance with the Arboricultural Specifications and Standards of Practice adopted pursuant to this ordinance.

D. Removal and/or Replacement. When any public tree is to be removed and/or replaced such work shall be done in accordance with the Master Tree Plan and the Arboricultural Specifications and Standards of Practice adopted pursuant to this ordinance.

51.09 Planting, Removal, and Replacement of Public Trees.

A. Planting. No person shall plant a tree on any street or highway or in any park or other public place without first filing an application and receiving a permit from the Arborist. Such planting shall be done in accordance with the Master Tree Plan, this ordinance, and the Arboricultural Specifications and Standards of Practice.

B. Removal and Replacement (City). Wherever it is necessary to remove a public tree or trees in connection with the paving of a sidewalk, or the paving or widening of a street or highway, the City shall replace such trees. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Master Tree Plan are planted in an attractive manner in the closest possible location.

C. Removal and Replacement (Private Citizen). No person shall remove a public tree for the purpose of construction, installation of utilities, or for any other reason, without first filing an application and procuring a permit from the Arborist, and without replacing the removed tree or trees in accordance with the adopted Standards and Specifications and the Master Tree Plan. The person shall bear the cost of such removal and replacement.

D. Replacement After Removal By The City. When the City Arborist or his designee removes a public tree because it is dead, diseased, damaged, or otherwise dangerous, the adjoining property owner may replace the tree himself, may have a nursery or landscaping company replace the tree, or may request that the city replace the tree (if the City has the ability to do so). In all cases the replacement shall be at the cost of the adjoining property owner. In all such instances the Master Tree Plan and Specifications and Standards must be adhered to. Nothing contained herein shall prevent the City from adopting a program for replacing public trees at City expense.

E. Ownership and Maintenance of Public Trees. All trees now or hereafter planted on streets or highways, or in parks or other public places shall be the property of the City. Providing that said trees are planted in accordance with the Master Tree Plan, this ordinance, and the Arboricultural Specifications and Standards of Practice, the City shall assume future maintenance responsibility for said trees.

51.10 Maintenance of Trees and Shrubs.

A. Responsibility of Property Owners. It shall be the responsibility of any person owning any real property to maintain the trees or shrubs on that property so that they do not endanger or cause a nuisance to persons or property occupying adjoining streets, public places, or private properties. This responsibility shall include but not be limited to pruning, removal or other maintenance for the following reasons:

1. Said trees and shrubs shall be pruned in a manner so that they will not obstruct or shade street lights, obstruct the passage of pedestrians on sidewalks, obstruct the vision of traffic signs, obstruct view of any street or alley intersection, or obstruct the view of traffic using the street. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all streets except major streets which shall have a clearance of sixteen (16) feet.
2. The pruning or removal of any dead, diseased, decayed or damaged trees or parts of trees that overhand or otherwise endanger persons or property on adjoining property, on streets, or in other public places.
3. The maintenance of clear vision triangles at street intersections as specified in the Arboricultural Specifications and Standards of Practice.

B. Order to Prune. Should any person owning real property bordering on any street fail to prune trees as herein provided, the Arborist shall order such person within ten (10) days after receipt of written notice, to so prune such trees.

C. Notice Required. The order required herein shall be served by mailing a notice of the order to the property owner at the address shown on the tax roll in the City Assessors Office. Said notice shall be sent by registered mail.

D. Failure to Comply. When a person to whom an order is directed, shall fail to comply within the specified time, it shall be lawful for the city to carry out the work ordered on such trees, and assess the exact cost thereof to the owner as provided by law in the case of special assessment.

E. Immediate Danger. When the City Manager, after consulting with the Arborist, shall determine that any tree is presenting an immediate danger to life or property, he shall have the authority to order its immediate removal. Said order shall be served upon the property owner in person. In the instance where the property owner is not immediately available, or able to perform the ordered removal, the City Manager may order such work done by the Arborist, other qualified City personnel, or by a contractor hired by the City. If the work is performed by the City the cost of said work shall be assessed against the property owner as provided by law in the case of special assessments.

51.11 Abuse or Mutilation of Public Trees. Unless specifically authorized by the Arborist, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; park or drive automotive vehicles in such locations as to damage the root system of any tree; allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with them; or set to fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree.

51.12 Interference With Arborist. No person shall hinder, prevent, delay or interfere with the Arborist or any of his assistants while they are engaged in carrying out the execution or enforcement of this ordinance, provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of 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.

51.13 Protection of Trees. All trees on any street or other public property near any excavation shall be guarded in a manner specified by the Arborist on the excavation permit issued by the City Engineering Department. No person shall excavate any ditches, tunnels, trenches, or lay any driveway or other pavement within a radius of ten (10) feet off any public tree without obtaining written authorization from the Arborist.

51.14 Placing Materials on Public Property. No person shall deposit, place, store, or maintain upon any street, highway, park or other public place of the City, any stone, brick, sand, gravel, dirt, concrete, or other materials, which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit from the Arborist.

51.15 Violation and Penalty. Any person, violating or failing to comply with any of the provisions of this ordinance, shall be guilty of a civil infraction. Each day a violation continues shall be considered a separate violation.

51.16 Legality of Ordinance and Parts Thereof. Should any section, clause or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the

validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.