

Gladwin, MI Code of Ordinances as of 9/18/12

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TITLE IX: GENERAL REGULATIONS/

CHAPTER 97: TREES AND SHRUBBERY

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§ 97.01 PURPOSE.

The purpose of this chapter is to promote the general welfare, health and safety of the public by encouraging the preservation, maintenance, culture, and planting of shade trees, plants, and shrubs upon the public highways and public parks; creation of a Tree Board and prescribing duties thereof; to declare certain uses and conditions public nuisances; to provide procedures for abatement of nuisances; and to provide penalties for violation thereof.

(Ord. 195, passed 2-15-93)

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PARK.** Any park, tot lot, or area owned by the city to which the public has free access for any use thereon permitted by law.

**PRIVATE TREE.** Any tree now existing or which may exist on land owned by a person or entity which is not part of any governmental unit.

**PUBLIC TREE.** Any tree or shrub now existing or which may exist on any land owned by the city, any park, any parkway, any roadway, or any public street.

**PUBLIC UTILITY.** Any franchised entity owning or operating a pole, line, pipe, wire or conduit for the transmission of electricity, gas, telephone, water, sewage or cable television service.

**SCHEDULE OF OFFICIAL PUBLIC TREES.** The schedule of official public trees as prescribed in the Comprehensive Tree Management Plan.

**SHRUBS.** Shrubbery, flowers, leafy plants or vegetation, dead, alive or dormant.

**TOPPING.** The severe cutting back of limbs to stubs larger than three inches within the tree's crown to the extent that the natural canopy is removed and the tree is disfigured.

(Ord. 195, passed 2-15-93)

§ 97.03 TREE BOARD.

(A) A Tree Board is hereby created. Members of the Tree Board shall consist of the Members of the City Planning Commission.

(B) The Tree Board shall assist the City Administrator in developing a comprehensive tree management and prevention program.

(C) The comprehensive tree management and prevention program as prescribed by division (B) of this section, upon presentation to and adoption by the City Council, shall

be known as the Comprehensive Tree Management Plan. All rules and regulations therein contained and amendments thereto as may be deemed necessary from time to time, not inconsistent with this chapter, shall be supplementary to and have the same force and effect as if adopted herein.

(Ord. 195, passed 2-15-93)

#### § 97.04 SITE PLANS.

When the development of any property requiring site plan approval occurs, the Planning Commission shall review landscaping plans and may require trees to be planted on or near the site consistent with the elements of the adopted community land use plan, also known as the "Master Plan," and with the Comprehensive Tree Management Plan.

Editor's note:

A copy of the Master Plan is available for public inspection at the office of the City Clerk.

#### § 97.05 TREE MAINTENANCE AND PROTECTION.

(A) No person shall break, injure, mutilate, kill, destroy, set fire to or permit a fire to be set to any public tree or shrub. No person shall knowingly cause or permit to be caused the seepage, drainage, injection or emptying of any chemicals or other materials harmful or injurious to a tree on, into or within 20 feet of any tree in the city. Normal treatment of lawns with weed killer and lawn fertilizer shall be exempt from this section unless the weed killer or lawn fertilizer used is contained on a list of prohibited chemicals published by any agency of the governments of the United States or the State of Michigan.

(B) No person shall use any public tree as an anchor. No person shall fasten or hang any material of any kind to any public tree. No person shall attach any electrical wire or insulation to any public tree. This provision does not apply to residential Christmas holiday decorations.

(C) Any person who has under his or her care, custody, or control any facility which interferes with the care or removal of a public tree by the city must promptly abate such interference upon the request of the City Administrator or his designee.

(D) Public utilities have the responsibility to maintain their overhead or underground pipes, conduit mains or lines in such a manner as to prevent any leakage therefrom. In the event of such a leakage, the public utility charged with maintaining the line as to prevent leakage shall be charged the cost of removal and replacement of any public or private trees which occurs in order to repair the leak.

(E) The topping of any public tree is prohibited without written authorization of the City Administrator or his designee.

(F) No person may remove or cut down a public tree without written authorization from the City Administrator or his designee. Any person who violates this subsection shall be required, in addition to any other penalties imposed by this chapter or any other law, to replace all public trees so removed or cut down at the violator's expense. Specifications of any replacement tree shall be determined by the City Administrator.

(G) The city shall have the right to cause the removal of any private tree or any part thereof which meets the definition of the term nuisance as set forth in this chapter. In order to cause the removal of any such private tree, the city shall follow and fully comply with the procedures for abating such a nuisance as set forth in this chapter.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

#### § 97.06 APPROVAL FOR PLANTING.

No person shall plant any shade or ornamental tree, plant or shrub in any public highway or park until the City Administrator, or designee thereof, shall have approved the kind, size, and variety of the tree and designated the location for planting the same. The City Administrator shall not approve the planting of and no person shall plant any tree, plant or shrub upon any street or highway, except and unless under the following conditions:

(A) That such tree is one of the species listed on the schedule of official public trees; and

(B) That such tree is free from infectious disease.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

#### § 97.07 TREES OR SHRUBS OBSTRUCTING SIDEWALKS OR STREETS.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub which in any way obstructs, protrudes into or impedes the use of any street or sidewalk.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

#### § 97.08 TREES OR SHRUBS OBSTRUCTING VISIBILITY AT INTERSECTIONS.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub, or part thereof, at or near corners of

city streets, which hangs over into the intersection and obstructs the vision of a driver while approaching, at or in any intersection.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.09 TREES OR SHRUBS OBSTRUCTING VIEW FROM DRIVE OR ALLEY.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub which obstructs, in any manner, view of the street or sidewalk, in either direction, so as to hinder a driver's ability to see oncoming vehicular, bicycle or pedestrian traffic while pulling onto or backing from a street, driveway or alley.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.10 DISEASED TREES.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree which is diseased or infected with insects, whose structure is weakened so that there is a danger of the tree or any part thereof falling or infecting surrounding trees or vegetation.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.11 NUISANCE DECLARED.

The situations or conditions referred to in §§ 97.07 through 97.10 herein are hereby declared a public nuisance.

(Ord. 195, passed 2-15-93)

Cross-reference:

Nuisances, see Ch. 94

Nuisance animals, see § 91.05

Nuisance junk yards, see § 113.05

§ 97.12 NOTICE OF NUISANCE TO OWNER OR OCCUPANT REQUIRED;  
EXCEPTION.

Except when the City Administrator deems the situation or condition to constitute an emergency requiring immediate abatement, the city shall notify the owner or occupant of the property and request that the public nuisance described herein be abated within seven days from the date of the notice. Notice may be given in person, posting securely on the premises, first class mail or any other method reasonably calculated to give notice to the owner or occupant of the property.

(Ord. 195, passed 2-15-93)

§ 97.13 APPEAL OF ORDER TO TREAT OR DESTROY TREE.

In case the owner, agent or occupant of the property shall feel himself aggrieved resulting from any order of the city requiring the treatment or destruction of any tree, such person may within 48 hours make an appeal to the City Council by filing a written statement of appeal with the City Clerk. The 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.

(Ord. 195, passed 2-15-93)

§ 97.14 FAILURE TO COMPLY WITH ORDER.

In the event that the owner or occupant of the property fails to abate the nuisance as requested in the notice, the city shall cause the nuisance to be abated.

(Ord. 195, passed 2-15-93)

§ 97.15 COSTS OF ABATEMENT.

In the event the city is required to abate a nuisance, the owner and occupant shall be jointly and severally liable for all actual costs directly incurred by the city in abating the nuisance plus 10% thereof for indirect costs incurred, such as inspection and overhead.

(Ord. 195, passed 2-15-93)

§ 97.16 COLLECTION OF COSTS.

All costs incurred in connection with the abatement of the nuisance shall become a lien against the property and may be collected in the same manner as taxes and assessments are collected. In addition, the city may, at its sole option, institute legal proceedings to collect all costs of abatement of the nuisance.

(Ord. 195, passed 2-15-93)

§ 97.99 PENALTY.

In addition to remedies provided by §§ 97.12 through 97.14 of this chapter:

(A) Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail or both.

(B) In the alternative to division (A) of this section, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any of the provisions of this chapter. The civil citation shall carry a fine of not more than \$500.

(Ord. 195, passed 2-15-93)

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