

## City of Escanaba - Tree Ordinance

### Chapter 29 VEGETATION\*

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\***Cross references:** Fences and hedges, Ch. 11.

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#### Sec. 29-1. Planting, care and protection of trees.

The department of public works shall have exclusive jurisdiction, authority, control, supervision and direction over all trees, plants, shrubs, and grassy areas planted or growing in or upon the public highways and public places of the city, and the planting, removal, care, maintenance and protection thereof.

(Code 1969, § 94.01)

#### Sec. 29-2. Permit to cut, trim or prune trees along public highway.

Except upon order of the department of public works, it shall be unlawful for any person, or the officer or employee of a corporation without a written permit from the department of public works, to remove, destroy, cut, break, climb or injure any tree, plant or shrub or portion thereof that is planted or growing in or upon any public highway or public place within the city, or cause or authorize or procure any person to cut, break, climb, remove, destroy or injure any such tree, plant or shrub or part thereof; or to injure, misuse or remove, or cause, authorize or procure any person to injure, misuse or remove any device set for the protection of any tree, plant or shrub in or upon any public highway or public place.

(Code 1969, § 94.02)

#### Sec. 29-3. Gas, salt, brine water, oil and other substances that kill or injure.

(a) It shall be unlawful for any person, owning or using, or having control or charge of gas or other substances deleterious to tree life, to allow such gas or other deleterious substance to come into contact with the soil surrounding the roots of any tree, shrub or plant, in any public highway or public place in such manner as shall kill or destroy or may injure such tree, shrub or plant. It shall also be unlawful for any person to cause, authorize or procure any salt, brine water, oil, liquid dye or other substance deleterious to tree life, to lie, leak, pour, flow or drip on or into the soil about the base of such tree, shrub or plant or onto any sidewalk, road, pavement or gutter therein at a point whence such substance may be lying on, or by flowing, dripping or seeping into such soil, or in any other manner whatsoever, injure such tree, shrub or plant or to cause or procure such lying, leaking, flowing, dripping, seeping or injuring.

(b) It shall also be unlawful for any person to deface with paint, white-wash, or other materials, trees or shrubs in any public highway or public place.

(Code 1969, § 94.03)

#### Sec. 29-4. Permit required to place stone or cement around tree.

It shall be unlawful for any person, except with a written permit of the department of public works, to place or maintain upon the ground in any public highway or public place, any stone, cement or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree, plant or shrub in any such highway or place. Unless otherwise provided for in such written permit, there must be maintained about the base of the trunk of each tree in such highway or place at least nine (9) square feet of ground for a tree three (3) inches in diameter and for every two (2) inches of increase of such diameter there must be an increase of at least one square foot of open ground.

(Code 1969, § 94.04)

Sec. 29-5. Placing electric wires near tree.

It shall be unlawful for any person to cause, authorize or procure a wire or other conductor, charged with electricity, to come into contact with any tree, plant or shrub in or upon any public highway or public place in such manner as may injure or abrade or shall destroy or kill such tree, plant or shrub. Every person shall, then and if the department of public works determines it to be necessary in order to prune or cut down any tree growing in or upon a public highway or public place, temporarily remove any wire or wires or cut off the electricity within twenty-four (24) hours after service upon the owner of such wire or wires, or his or its agent, of a written notice signed by the department of public works to remove such wires or cut off such electricity.

(Code 1969, § 94.05)

Sec. 29-6. Attaching wires, ropes, chains or signs.

It shall be unlawful for any person to attach or keep attached to any tree, plant or shrub in or upon any public highway or public place or to the guard or stake intended for the protection of such tree, any rope, wires, chains, signs or other device whatsoever, except for the purpose of protecting it or the public.

(Code 1969, § 94.06)

Sec. 29-7. Horses, etc., injury or possible injury.

It shall be unlawful for any person to tie any horse or other animal to any tree, plant or shrub in or upon any public highway or public place, or having charge of such horse or other animal to allow or cause or procure it to injure such tree, plant or shrub, or of any person in charge of such animal or horse to cause or allow it to stand so that it can injure such tree, plant or shrub.

(Code 1969, § 94.07)

Sec. 29-8. Protection of trees during construction.

During the erection, repair, alteration or removal of any building or structure, it shall be unlawful for the person in charge of such erection, repair, alteration or removal to leave any tree in or upon any public highway or public place in the vicinity of such building or structure without such good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such erection, repair, alteration or removal. All moving of trees, plants and shrubs in or upon any public highway or place made necessary for the moving of a building or structure or any other purpose shall be done by

the city forester, or under his supervision, at the expense of the applicant. Should such moving or replanting cause the death of such tree, plant or shrub, the applicant shall replace the same at his expense.

(Code 1969, § 94.08)

Sec. 29-9. Trees to be kept trimmed.

Trees standing in or upon any public highway or public place and on any lot or land adjacent to any public highway or public place and having branches projecting into the public highway or place shall, under the supervision of the department of public works be kept trimmed by the owner of the property on or in front of which such trees are growing so that the lowest branches shall not be less than a minimum of nine (9) feet or more than a maximum of fifteen (15) feet from the ground. The city forester may, however, allow newly planted trees to remain untrimmed, provided they do not interfere with persons using the sidewalk or obstruct the light of any street electric lamp. In case the owner shall neglect or refuse to trim such trees on being notified in writing so to do by the department of public works it shall be the duty of the department of public works after ten (10) days from the date of written notice to cause the trimming to be done and the cost of the trimming of the trees by the department of public works shall be a charge upon the real property on or in front of which such trees shall be trimmed. The cost shall be certified by the department of public works to the city treasurer and shall thereupon become and be a lien upon such property, shall be included in the next tax bill rendered to the owner thereof unless paid before, and shall be collected in the same manner as other taxes against such property.

(Code 1969, § 94.09)

Sec. 29-10. Reserved.

**Editor's note:** Ch. II of Ord. No. 932, adopted Dec. 4, 1997, repealed § 29-10 in its entirety. Formerly, § 29-10 pertained to grass plots to be kept mowed and derived from § 94.10 of the 1969 Code.

Sec. 29-11. Permit required to plant tree along street.

(a) It shall be unlawful for any person to plant or set out any tree or shrub for cause or authorize or procure any person to plant or set out any tree or shrub in or upon any part of any public highway or public place without obtaining from the department of public works a written permit so to do and without first complying in all respects with the condition set forth in such written permit and with the provisions of this chapter. All applications for such permit shall be made on blanks furnished by the department of public works and shall describe the work to be done and the variety, size and precise location of each tree or shrub. After the receipt of such an application the department of public works or his representatives shall investigate the locality where the tree is to be placed and shall grant a permit only, if, in his judgment, the location is such as to permit the normal growth and development of the tree. The permit shall specify the location, variety and grade of the tree and method of planting, including, among other things, the supplying of suitable soil. The permit shall be good only for the season stated in the same in the year issued, and no charge shall be made for the same. Before any permit shall be issued for planting more than twenty-five (25) trees on any one permit, the department of public works may request from the applicant a detailed declaration of intentions either in

form of a planting plan or written statement in duplicate. All planting plans shall be drawn on tracing cloth in ink. One copy of each plan or statement of intention shall when approved by the department of public works be returned to the applicant and the other copy shall be kept on file by the department of public works. All planting plans shall show accurately:

- (1) The proposed street together with its subdivision of pavement, curb, gutter, parking strip and sidewalk areas to a definite indicated scale;
  - (2) The proposed location of each and every proposed tree together with the location of each existing tree within the proposed street line in scaled relation to the other features of the plan;
  - (3) The variety of each and every tree proposed to be planted and of those already existing within the proposed street lines, either indicated on the plans or referenced with a number to key list;
  - (4) The distance between trees in any one row in feet;
  - (5) The nature of the soil in the planting space, to a depth of three (3) feet, and all existing and proposed surface or subsoil drainage system.
- (b) All statements filed in lieu of a planting plan shall contain the same information as required on the plan.  
(Code 1969, § 94.11)

#### Sec. 29-12. Certain trees prohibited near public highway.

It shall be unlawful for any person to plant or have or keep growing a poplar, boxelder, basswood, soft maple, or willow tree within any public highway or sidewalk within the limits of the city or not in accordance with the city master tree plan, the roots of which will penetrate over, on or under the surface of any public highway or sidewalk. The department of public works is hereby authorized, empowered and directed to cause to be served upon the owner of any premises having thereon any such tree a notice directing such owner to remove the tree within thirty (30) days after the receipt of the notice. The notice may be served by delivering the same personally to such owner, or by leaving the same with any person of suitable age and discretion residing at or upon such premises, or by affixing the same to such premises in a conspicuous place thereon. If, at the expiration of such period, the owner of such premises shall not have removed the tree or cause the same to be removed, the department of public works is hereby authorized, directed and empowered to enter upon the premises and remove the tree. The cost of the removal of a tree by the department of public works shall be a charge upon the real property on or in front of which the tree shall be removed. The cost shall be certified by the department of public works to the city treasurer and shall thereupon become and be a lien upon the property, shall be included in the next tax bill rendered to the owner thereof unless paid before, and shall be collected in the same manner as other taxes against such property.  
(Code 1969, § 94.12)

#### Sec. 29-13. Regulations for trees near public highway.

The following regulations are hereby established for the planting, trimming and care of trees in or upon the public highway and sidewalk and public places of the city:

- (1) Trees must not be less than one inch in diameter of trunk one foot above the ground.

- (2) All trees from one to three (3) inches in diameter of trunk one foot above the ground must be protected and supported by tree guards. When guarded with one stake only, the stake must be toward the prevailing wind.
  - (3) No tree shall hereafter be planted at the intersection of two (2) or more streets or within twenty (20) feet of such intersection.
  - (4) In cutting down trees, the same must be removed with the root stump grubbed out when so required by the department of public works.
  - (5) All cuts above one inch in diameter must be water proofed.
  - (6) Trees shall hereafter be planted at least thirty (30) feet apart except when a special permit is obtained from the department of public works.
  - (7) No tree shall be planted where the clear space between the curb and the sidewalk is less than three (3) feet.
  - (8) No tree shall be planted where the soil is too poor to ensure the growth of such tree unless the owner excavates a suitable hole of not less than thirty-six (36) cubic feet and replacing the material removed with suitable loam, or soil stripped from pasture land.
  - (9) No tree shall be planted nearer than one foot from the curb line or outer line of the sidewalk unless a special permit is granted by the department of public works.
  - (10) No tree shall be planted on any street except of the variety selected by the department of public works for that street.
- (Code 1969, § 94.13)

Sec. 29-14. Power to reserve or remove trees.

The department of public works shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lands, lanes, squares and public grounds, as may be necessary to ensure safety or preserve the symmetry and beauty of such public grounds. The department of public works, under the power here given, 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 or other public improvements, or is affected with any injurious fungus, insect or other pest. The department of public works shall also have power to enter upon any private property in the city and to spray or otherwise treat or cause or order to be sprayed or otherwise treated any tree or shrub or plant infected or infested by any parasite or insect pest when it shall be necessary in his opinion so to do, to prevent the spreading or scattering of any parasite or insect pest, and to prevent danger therefrom to trees and shrubs planted in the public streets or other public places, and whenever in the opinion of the department of public works trimming, treatment or removal of any such tree or shrub located on private grounds shall be deemed wise the department of public works shall have the power to trim, treat or remove any such tree or shrub or cause or order the same to be trimmed, treated or removed. The cost of the removal of a tree or trees by the department of public works shall be a charge upon the real property on or in front of which such tree or trees shall be removed. Such cost shall be certified by the department of public works to the city treasurer and shall thereupon become and be a lien upon such property, shall be included in the next tax bill rendered to the owner thereof unless paid before, and shall be collected in the same manner as other taxes against such property. Notice to remove under this section shall be served personally at least ten (10) days before such removal on

the owner or agent of the property or abutting property, unless in the opinion of the department of public works immediate removal be necessary for public safety.  
(Code 1969, § 94.14)

Sec. 29-15. Interference with the department of public works.

It shall be unlawful for any person to prevent, delay or interfere or cause or authorize or procure any interference or delay with the department of public works or any of his employees, agents or servants, while they are engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees, plant or shrub in or upon any public highway or public place or upon any private grounds as authorized in the previous section or in removing any device attached to such tree, plant or shrub or in such removing of stone, cement, sidewalk or other materials or substance as may be necessary for the protection and care of any such tree, plant or shrub in accordance with the requirements set forth in section 29-4 as to the area of open grounds to be maintained about the base of the trunk of each tree in the public highways or other public place of the city.

(Code 1969, § 94.15)

Secs. 29-16--29-19. Reserved.

Sec. 29-20. Municipal civil infraction; penalties and sanctions.

A person who violates any provision of chapter 29 is responsible for a municipal civil infraction subject to payment of a civil fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00), plus costs and other sanctions for each infraction. Repeat offenses shall be subject to all of the provisions of section 1-13 of this Code.  
(Ord. No. 919, § 6, 9-19-96)