

## Chapter 86 VEGETATION

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### ARTICLE I. TREES AND SHRUBS

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#### **Sec. 86-1. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Curb strip / lawn extension*** means the unimproved portion of the street right-of-way not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.

**Department** means the department of public works of the city.

**Developer** includes all persons, or an organization of any kind, who shall engage in new construction or other improvements in any zoning district of the city.

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

**Street** means all of the land lying between property lines on either side of all streets and boulevards in the city and owned by the city, also known as the right-of-way (ROW), and includes lawn extensions and sidewalks and the area reserved therefor where lawn extensions and sidewalks are not yet constructed.

**Superintendent** means superintendent of the department of public works or their designee .

**Tree** means trees, shrubs, bushes and all other woody vegetation, whether potted or not.

#### **Sec. 86-2. Applicability of article.**

The provisions of this article, except as otherwise specifically stated in this article, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

#### **Sec. 86-3. Powers and duties of city manager.**

- (a) The city manager or their designee shall be charged with the duty of enforcing the provisions of this article.
- (b) The city manager or their designee 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 article.
- (c) It shall be the responsibility of the city manager or their designee to study, investigate, develop, update, and administer, a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.
- (d) The city manager shall coordinate with property owners and neighborhoods in development of plan(s) and may retain a registered Michigan forester or arborist as a consultant to assist in the technical matters of forestry management.

#### **Sec. 86-4. Powers and duties of city council.**

- (a) The city manager shall present to the city council a written plan and upon its acceptance and approval shall constitute the official comprehensive tree plan for specific neighborhoods and for the city as a whole. The plan shall be updated as needed.
- (b) The city council may request the city manager to consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of this article.

### **Sec. 86-5. Donations, gifts and bequests.**

The city may receive gifts or bequests from any person for the planting and/or maintenance of trees and shrubs on any street or public property.

### **Sec. 86-6. Work on trees in public places.**

The planting, maintenance, or removal of trees in public places in the city will be performed by the department of public works or private contractor in accordance with the official comprehensive tree plan(s) and / or adopted policies.

### **Sec. 86-7. Standards for street trees in the right-of-way.**

- (a) ***Approved and prohibited species.*** The City shall maintain an official list of approved and prohibited species. The approved list may include appropriate species determined by local, state, and federal agencies best suited for the urban forests; including but not limited species best suited for the current and changes in the USDA hardiness zone, native species, species necessary to maintain and restore urban forestry diversity, and keystone tree species. The prohibited list may include but is not limited to exotic or invasive species, species designated by local, state, and federal agencies, and species not suited for urban areas.

The list shall be prepared and updated by city staff and kept on file in the office of the city manager and the office of the zoning administrator. The list shall be reviewed and updated as needed, and at least every five (5) years. No species other than those included as approved on this list shall be planted without written permission of the city manager.

- (b) ***Spacing.*** The spacing of street trees shall be in accordance with the recommended spacing for that species as denoted on the official species list.
- (c) ***Distance from curbs, sidewalks, fire hydrants, and utilities.*** The distance trees may be planted from infrastructure in the right-of-way shall be in accordance with the following unless an exception is approved by the city manager or their designee through the appropriate permit process:
- (1) Curbs and sidewalks: No trees may be planted closer than three (3) feet from any curb or sidewalk edge.
  - (2) Fire hydrants: No trees may be planted closer than twelve (12) feet from any fire hydrant.
  - (3) Overhead Utilities: No trees, other than those of appropriate mature height, may be planted under any electrical wire.
  - (4) Underground Utilities: No trees may be planted immediately over top of water lines, sewer lines, or other permitted underground utilities.
- (d) ***Distance from street corners.*** No street tree shall be planted within the clear vision area of any street corner, measured from the point of nearest intersecting curbs or curblines, unless approved by the city manager. All tree branches shall be trimmed to maintain a clear vision area to a vertical height of ten (10) feet. Immature and newly planted trees may have branches within the height restriction area until such time as tree is

established and may be trimmed without causing irreparable harm and to maintain the health of a tree.

**Sec. 86-8. Permit for planting or removal of trees in public place.**

(a) ***Permit required; compliance with applicable regulations.***

(1) No person shall plant, transplant or remove any tree upon or from any curb strip, street, park or public place in the city, or cause such act to be done by others, without first obtaining a written permit from the office of the city manager.

(2) Persons receiving such permit shall abide by the ordinances and policies adopted by the city. A permit for removal may require stump grinding, restoration of ground, and / or planting of a replacement tree.

(b) ***Application.*** Applications for permits must be made at the office of the city manager not less than 72 hours in advance of the time the work is to be done. Each application shall include a timeline of proposed work and a description of work to be completed, including but not limited to location, number of trees, species, and any other pertinent information regarding activities.

***Permit.*** Each permit granted shall contain the work to be done and an expiration date. The work shall be completed in the time allowed in the permit, and in the manner therein described.

**Sec. 86-9. Tree planting requirements for developers.**

(a) Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the city, including, but not limited to, subdivision regulations and site plan requirements.

(b) One tree of an approved species measuring at least two inches in caliper shall be planted in the street at all new construction sites, residential or otherwise, for every forty (40) lineal feet of street frontage. One additional tree shall be planted for every twenty (20) lineal feet of street frontage if a small to medium tree species is selected for planting purposes. The developer shall show the location of the required trees on the submitted site plan prior to the issuance of a zoning or building permit. The developer shall be responsible for fulfilling these requirements.

**Sec. 86-10. Protection of trees in public places.**

Unless a permit shall have been issued by the city manager, it shall be unlawful for any person to do the following to any trees in or upon any curb strip, parks or other public places:

(a) Fasten any sign, card, poster, wire, rope or other material to, around or through any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care.

(b) Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner.

(c) Permit any fire to burn where such fire will injure any portion of any tree or shrub.

- (d) Permit any toxic chemical to seep, drain, or be emptied on or about any tree or shrub.
- (e) Deposit, store, place or maintain, on any street, highway, 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 or shrub growing therein.
- (f) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of 40 feet of any tree.
- (g) Knowingly permit any electrical wires to come into contact with any tree or shrub.
- (h) Allow excavations and driveways to be placed within five feet of any tree. Any person making such excavation or construction shall only be allowed with an approved site plan and zoning permit and shall guard any tree from construction activities.
- (i) Plant any prohibited species of tree as set forth in section 86-37.

**Sec. 86-11. Payment of costs for damage to trees in public places.**

The cost of public trees growing on streets, curb strip parks, or other public places which are destroyed or damaged to the point where repair or replacement is needed shall be paid by the person causing such damages in the amount needed to replace or repair the destroyed or damaged trees. Any value realized from any tree removed from public property shall be for the exclusive benefit of the city.

**Sec. 86-12. Inspection of trees within the city.**

The city shall pursue to safeguard the general health of the urban forest within the city by guarding against the spread of destructive insects and diseases, mitigating the spread of invasive and exotic species, and protecting the public from hazardous conditions. The city manager and the superintendent, or their designees, shall have the responsibility and authority of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects, diseases, or invasive and exotic species are suspected. The city in coordination with a property owner may examine and if necessary, remove such specimens as are required for analysis to determine the presence of insects, disease, or other detrimental conditions. No person shall prevent the city manager or the superintendent, or their designees, from carrying out their duties under this section to safeguard the general health of the urban forest.

**Sec. 8613. Abatement of diseases, insects and other hazards affecting trees on private property.**

- (a) When the city manager or superintendent shall discover that any tree growing on private property within the city is an invasive species, exotic species, or is afflicted with any dangerous insect, infestation, disease or condition, they shall immediately notify the property owner, and provide information on the necessary corrective measures to abate the infestation, disease, or condition, and to prevent the spreading thereof. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary, and may include information on available resources, contacts, opportunities to coordinate with the city, and possible funding to abate the issue. Correction measures may include stump treatment and / or stump removal.

**Sec. 86-14. Trimming of trees encroaching on public property.**

- (a) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a hazard, or interferes with the proper spread of light along the street from a streetlight, may be trimmed by the property owner on whose property the tree stands, or by the department up to the property line, so as to remove the obstruction. Trimming shall be in accordance with best management practices and completed in such a manner as to not cause irreparable harm and to maintain the health of a tree.
- (b) The city manager or superintendent shall provide written notice to the property owner regarding any encroachment and property owner will be given a reasonable and definite time to comply with the order, unless immediate hazard exists. The notice shall include applicable contact information to the property owner to coordinate with the city regarding necessary trimming, regardless of whether the property owner seeks to perform the trimming themselves or seeks to have the city complete the necessary work. If, at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof and has not contacted the city regarding coordination of activities, the city shall carry out the requirements of the notice.

## **ARTICLE II. WEED CONTROL**

Sec. 86-31. Exemptions.

Sec. 86-32. Prohibited conditions.

Sec. 86-33. Cutting and removal of weeds required.

Sec. 86-34. Notice to cut and remove weeds; cutting and removal by city.

### **Sec. 86-31. Exemptions.**

Exempted from the provisions of this article are undeveloped lots, flower gardens, pollinator / butterfly gardens, plots of shrubbery, vegetable gardens, small grain plots, certified wildlife habitats, and native planting landscapes. An exemption under the terms of this section cannot be claimed unless the land has been cultivated, managed, certified, or is cared for in a manner appropriate to such exempt categories.

### **Sec. 86-32. Prohibited conditions.**

- (a) No person occupying any premises, and no person owning any unoccupied premises, shall permit or maintain on any such premises any growth of noxious, invasive, exotic, prohibited or restricted species, or any unmaintained growth of turf grass to a height greater than 8 inches on the average. The City shall maintain a list of prohibited species, including but not limited to species designated by local, state, and federal agencies, prepared and updated by city staff, and kept on file in the office of the city manager and the office of the zoning administrator. The list shall be reviewed and updated as needed, and at least every five (5) years.
- (b) No person shall maintain perennial vegetation or plantings to a height of thirty (30) inches or more within the clear vision area of a street, with the exception of trees under conditions described in this chapter.

### **Sec. 86-33. Cutting and removal of weeds required.**

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city to cut and remove or destroy by lawful means all such prohibited species and grass as often as may be necessary to comply with the provisions of section 86-72; provided that the cutting, removing or destroying of such weeds and grass occur at least once in every two weeks between May 15 and October 15 of each year shall be deemed to be in compliance with this article.

### **Sec. 86-34. Notice to cut and remove weeds; cutting and removal by city.**

If the provisions of sections 86-72 and 86-73 are not complied with, the city shall notify the occupant or owner of unoccupied premises, to comply with the provisions of sections 86-72 and 86-73 within seven days of the notice. The notice shall provide information on the

necessary corrective measures, and may include information on available resources, contacts, opportunities to coordinate with the city, and possible funding to abate the issue. If, at the expiration of the time limit on the notice, the owner has not complied with the requirements thereof and has not contacted the city regarding coordination of activities, the city shall carry out the requirements of the notice.