

City of Flat Rock, MI - Tree Ordinance

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ARTICLE II. FORESTRY REGULATIONS*

***Editor's note:** Ord. No. 326, adopted Aug. 7, 1995, amended Art. II, which consisted of §§ 62-31--62-50, in its entirety to read as herein set out. Former Art. II pertained to tree regulations and derived from the 1979 Code.

Sec. 62-31. Purpose and intent.

The purpose of these regulations is to promote and enforce a comprehensive forest management program of the City of Flat Rock. These regulations establish minimum standards and specifications governing the maintenance, planting, removal or other work or conditions affecting trees within or over-hanging public rights-of-way and public parks within the City of Flat Rock. Trees on private property that pose a public hazard or nuisance due to infectious diseases are also regulated by this article. This article is intended to supplement and complement landscape requirements of the zoning ordinance. (Ord. No. 326, 8-7-95)

Sec. 62-32. Definitions.

The following definitions shall apply in the interpretation of this article:

Administrator shall mean the person designated by the city council to enforce and administer these regulations.

Comprehensive forest management plan or *plan* shall mean the document adopted by resolution of the planning commission which includes tree planting and maintenance specifications and design guidelines referenced in these regulations.

Park shall include all public parks and all areas owned by the city to which the public has free access as a park.

Public right-of-way shall include any public right-of-way for streets, alleys and pedestrian facilities.

Public utility shall mean any person, owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

Street shall mean all the land lying between property lines within the public right-of-way on both sides of all streets, highways, and boulevards in the city.

Street trees are defined as trees located on public right-of-way between the curb and property line along the side of roads and streets or in medians of all roads, streets, avenues, or ways within the city.

Tree, unless the context clearly indicates otherwise, shall mean trees, shrubs, bushes and all other woody vegetation.

(Ord. No. 326, 8-7-95)

Sec. 62-33. Enforcement.

The administrator shall be charged with the duty of enforcing the provisions of this article.

(Ord. No. 326, 8-7-95)

Sec. 62-34. Permit and application required.

(1) A permit must be obtained from the administrator before any person, either for himself or another, plants, prunes, removes, or destroys any tree, shrub, or hedge in or upon the public right-of-way of any street, alley, sidewalk, or other public place.

(2) Fees for permits under this article shall be established by resolution of the city council.

(3) Applications for permits shall include all pertinent information deemed necessary by the administrator to determine compliance of the proposal with these regulations. Information included with the application shall include, but not necessarily be limited to, a general description of the scope of work to be performed, type, quantity, size, specie and location of trees to be installed, maintained, removed, etc., the timing and duration of the work, and method to be used to complete the work. The administrator may approve or disapprove permit applications or issue permits with conditions deemed necessary to ensure compliance with this article.

(4) In addition to the preceding information, proposals for planting trees shall include a plot plan drawn to a scale of not less than one inch = 20 feet showing existing conditions and improvements within the section of the right-of-way to be planted and within 30 feet adjacent to the right-of-way, all adjacent and intersecting property boundary lines, all right-of-way lines, utility easements and drainage improvements, the location and spacing of trees to be planted, planned road improvements, and any future or proposed right-of-way line.

(5) In case the owner or agent of the property is aggrieved by a decision of the administrator under the terms of this section, he may within 48 hours make an appeal to the city council by communication filed with the city clerk. The city council shall hear the 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. No. 326, 8-7-95)

Sec. 62-35. Scope and applicability.

(1) These specifications shall serve as the standard for planting and maintenance of all trees within public rights-of-ways and on public lands. They apply whether work is performed contractually, by city forces or by private individuals. Exceptions to the standards and specifications of this article must be by written approval of the administrator.

(2) All motor vehicles and other major equipment of any licensed person used in conducting the licensed business shall be clearly identified with the name of the licensee.

(3) Authorized work on or with public trees or shrubs neither expresses nor implies a right to violate any law of the land while in process of performing such work.

(4) All such work shall be conducted in a manner as to cause the least possible interference with or annoyance to others.

(5) All personnel utilized for work on or with trees or shrubs shall be trained to perform the work properly and safely.

(6) A qualified supervisor shall be present at all times when work is being performed except that he may be absent for short periods during the day when necessary because of emergencies or other urgent matters.

(7) Any injury to persons or damages to any improvement, vehicle, tree, shrub or structure while working with trees or shrubs shall be promptly reported to the administrator.

(8) Any use of tools or equipment in unsafe condition or any application of techniques or methods deemed unsafe to life, limb or property is forbidden.

(9) Pedestrian and vehicular traffic shall be allowed to pass through the work areas only under conditions of safety and with as little inconvenience and delay as possible.

(10) Adequate barricades and warning devices shall be placed and flagmen shall be stationed as necessary for the safety of persons and vehicles.

(11) Qualified street and sidewalk warning devices shall be in position as required at all times while work on public trees or shrubs is being performed.

(12) Whenever electric or telephone lines, gas lines, water lines or other improvements, public or private, upon a public area will be implicated or jeopardized by any authorized tree or shrub activity, the proper authorities of the utilities involved or property owner involved shall be consulted prior to performing any work activity and all requested precautions by any such authority shall be complied with.

(Ord. No. 326, 8-7-95)

Sec. 62-36. State, county and federal roads.

(1) For roads under the jurisdiction of the State of Michigan, Wayne County or federal government a permit from the proper state, county or federal authority is required for any construction in the right-of-way, which includes planting trees.

(2) These regulations are not intended to conflict with the laws or regulations of state, county or federal agencies regarding the planting, maintenance or removal of trees within the rights-of-way of state, county or federal roads. If the requirements of this article are found to conflict with the regulations of county, state or federal governments, the standard or requirement of the county, state or federal government shall apply. If a requirement of this article is more stringent than a county, state or federal standard but does not conflict with said standard, the more stringent standard shall apply.

(Ord. No. 326, 8-7-95)

Sec. 62-37. Maintenance standards.

(1) All public deciduous trees on improved properties shall be pruned on a rotational basis of approximately ten years. This includes pruning each city-owned deciduous tree at least once in this time period based on the pruning specifications in the comprehensive forest management plan.

(2) Public trees shall be managed in such a manner as to promote their general health by providing the necessary cultural practices which may include insect and disease control, fertilization, irrigation, staking, guying, wrapping, cabling, bracing and pruning.

(3) Trees shall be maintained in such a manner as not to endanger, interfere, or otherwise conflict with requirements of safe public use of an area.

(4) Any public tree which because of habit of growth, age, condition or disease becomes a hazard to public safety or obstructs a clear view of streets, signs, signals or

intersections, thus creating a hazard, shall be maintained to correct the problem. Hanging limb and branch growth shall be maintained 14 feet above streets and eight feet above sidewalks.

(5) Every owner of any tree or shrub overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not interfere with the safe use of the street or sidewalk or obstruct the view of any street intersection.

(6) Every owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a threat to public safety.

(7) The city shall have the right to prune any tree or shrub on private property when it interferes with the safe use of the street or sidewalk or when it interferes with the visibility of any traffic control device or sign or streetlight.

(8) When the administrator discovers that any tree on private property within the city is afflicted with a dangerous and infectious insect infestation or tree disease, a written notice shall be served to the owner or his agent as specified in this section. The notice shall describe the tree, its location and the nature of the infestation or tree disease and order the owner or agent to take reasonable measures to cure and prevent the spreading of the infestation or disease and specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within ten days after service thereof, upon the owner, agent or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in the notice.

(9) Every elm tree, regardless of specie or variety, infected with the fungus *ceratostomella ulmi*, popularly called Dutch elm disease, shall be cut and burned; if on public property, within ten days after the administrator shall learn of the condition and, if on private property, within ten days after notice as specified in this section.

(10) No person shall possess, sell, give away or transport any elm tree afflicted with the fungus *ceratostomella Lilmi* nor any wood from, or parts of, any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning if first sprayed thoroughly with a one percent DDT solution in a manner approved by the administrator.

(11) In case the owner or agent of the property is aggrieved by an order of the administrator requiring the treatment, maintenance or destruction of any tree, he may within 48 hours make an appeal to the city council by communication filed with the city clerk. The city council shall hear the 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.

(12) Any owner of any property failing to trim any trees, shrubs, or bushes on private property in conformance with this section shall be notified by the administrator to do so within ten days after the date of the notice. If the owner or agent of the property refuses to carry out the order of the administrator within the time limit or in the case of an appeal as provided below, within five days after the council affirms the order, the administrator shall carry out the pruning, spraying or destruction of the trees in compliance with these standards and specifications and shall bill the owner or agent of the property for the cost. In the case that the owner or agent fails to pay the bill within 60 days after the date it has been delivered, the administrator shall report the matter to the city council for collection as a single lot assessment against the property in accordance with the City Charter.

(Ord. No. 326, 8-7-95)

Sec. 62-38. General standards.

(1) Public projects, such as parks, streets, medians, substations, treatment plants, plazas, and public buildings, shall provide street and park tree plantings. The landscape plan for such projects shall be approved by the planning commission prior to construction and shall adhere to these standards and specifications.

(2) Any street trees proposed or required as part of the site plan review or PUD review process of the zoning ordinance shall adhere to the design standards of the comprehensive forest management plan and all other specifications and standards of these regulations. Species selection shall be from the recommended species list in the comprehensive forest management plan.

(3) Existing public properties shall receive new in-fill planting on an ongoing basis as funding is available. All public trees that are removed by the city or others shall be replaced by new trees on at least a one-for-one basis.

(4) Site criteria to be evaluated by the planning commission in determining tree planting locations are:

- a. Visibility of site.
- b. Probability of long-term tree survival.
- c. Likelihood of private participation and financing.
- d. Overall benefit to the community.
- e. Compliance with comprehensive forest management plan.

(5) Public tree planting can be by the balled and burlapped, tree spade, or container method. Bare root plantings are not permitted.

(6) Minimum sizes for all plant material shall be as specified in the Flat Rock Comprehensive Forest Management Plan.

(Ord. No. 326, 8-7-95)

Sec. 62-39. Street tree spacing and location requirements.

Guidelines for spacing and locating trees within any right-of-way in the city shall comply with specifications in the comprehensive forestry plan. Design guidelines and prototypes illustrated in the plan also shall be followed in determining the placement and location of trees for roads designated in the design guidelines section of the plan as listed in section 62-40.

(Ord. No. 326, 8-7-95)

Sec. 62-40. Design guidelines.

The planting of trees within the rights-of-way of any of the following roads: Telegraph Road, Vreeland Road, Gibraltar Road, Woodruff Road, East Huron River Road, West Huron River Drive, Olmstead Road, Hall Road, Inkster Road, and Arsenal Road shall comply with the design guidelines in the comprehensive forest management plan. These roads have been designated for one of the following streetscape types in the plan: primary downtown; secondary downtown; gateway; residential; and rural residential. The layout, spacing, tree species and other design characteristics of any tree planting plan for these roads shall conform to the applicable prototypes.

(Ord. No. 326, 8-7-95)

Sec. 62-41. Pruning.

Pruning of trees within any public right-of-way in the city shall comply with the standards and specifications in the comprehensive forest management plan.

(Ord. No. 326, 8-7-95)

Sec. 62-42. Tree removal criteria.

It is the objective of the City of Flat Rock to provide a tree planting program on public property that ensures the future existence of the city's tree resources by the planting of as many or more trees than must be removed due to infection, death, hazardous condition, nuisance or construction occurring in the area. In addition, tree removal criteria are specified to prevent indiscriminate removal. Wildlife habitat is considered as a factor in making all tree management and removal decisions. City trees may be removed only when one or more of the following criteria is met:

- (1) The tree is infected with an epidemic insect or disease where the recommended control is not possible and removal is the recommended practice to prevent transmission.
- (2) The tree poses an extreme public nuisance because of its species, size, location or condition. The nuisance could be caused by fruit or seed drop, harboring of insects, excessive twig or limb breakage, or other factors.
- (3) The tree poses a severe safety hazard that cannot be corrected by pruning, transplanting or other treatments.
- (4) The tree severely interferes with the growth and development of a more desirable tree.
- (5) The aesthetic values of the tree are so low or negative that the site is visually enhanced by the tree's removal.
- (6) Work improvements required to be made around the tree will kill or render it a hazard.
- (7) Preservation of the tree, when adjacent property is developed is not cost effective. The monetary value of the tree shall be compared to construction costs necessary to preserve the tree.

(Ord. No. 326, 8-7-95)

Sec. 62-43. Protection and preservation specifications.

The following specifications are intended to prevent unnecessary damage and destruction to trees.

- (1) Authorization must be given by the administrator before any of the following is performed:
 - a. Attaches or installs any metal materials, signs, cables, wires or other things foreign to the natural structure of the tree.
 - b. Excavates over 12 inches deep into the root zone within the drip line of a tree.
 - c. Treats the soil within the root zone with a soil sterilant.
- (2) All site or landscape plans involving public property should show all existing trees with a caliper over six inches. Trees to be saved and removed should be indicated. Every possible effort should be made to preserve desirable trees.

- (3) Existing trees to be saved should be marked with prominent identification. Where tree trunks are apt to be damaged, they should be protected with metal posts and snow fence.
 - (4) Heavy equipment should not be allowed to compact the soil over the root zone of existing trees. Restricted equipment access routes should be established.
 - (5) Curb cuts should not be closer than five feet from the trunk of the tree. No paving or asphaltting should be done closer than two and one-half feet from the tree trunk.
 - (6) New sidewalks, paving or asphaltting must allow breathing space for tree roots. The following should be used as a guideline. For trees up to four inches in trunk caliper, 25 square feet of porous area is needed. For each additional two inches of tree caliper, ten more square feet are needed.
 - (7) Where grade change is required, the same area must be provided either by construction of a dry well where the level is to be raised or by building a retaining wall where the level is to be lowered.
 - (8) Avoid cutting surface roots wherever possible. Sidewalks and paving levels should be contoured sufficiently to avoid such cutting.
 - (9) Root cuts from excavation should be done rapidly. Smooth flush cuts should be made. Backfill before the roots have a chance to dry out and water the tree immediately.
 - (10) Where many roots have to be removed, it may be necessary to prune branches out of the top of the tree to restore a proper top to root balance.
 - (11) If trees are in full leaf during the construction phase, it may be necessary to supply supplemental irrigation.
 - (12) Any tree on private property which, because of an epidemic disease or insect infestation, poses a threat to other trees or plants in the community shall be treated so as to control the spread of the disease or infestation.
- (Ord. No. 326, 8-7-95)

Sec. 62-44. Spray application specifications.

The following specifications pertain to the spray application of fertilizers or pesticides to the above-ground portions of trees:

- (1) The pesticide applicator should know and understand the capacities of those spray materials used by either himself or his employees and be aware of those recommendations stipulated by the manufacturer.
- (2) Ineffectual control, damage, injury or death to plants, animals or persons resulting from the use of spray materials beyond the limitation of the manufacturer's guarantee shall be considered the responsibility of the licensed operator.
- (3) Spray machines should give a proper spray coverage to all portions of the infested or infected tree being treated or it shall be considered inadequate to perform such operation.
- (4) Spray equipment shall be kept clean and in good working order. The administrator or his representative may inspect same at any time and take samples of spray materials being applied.
- (5) Operation with dirty tanks or equipment or unsanitary, unsafe methods of washing out or draining of same in public sewers and gutters is prohibited.
- (6) No spray application shall be carried out when there is sufficient wind to make pesticide control ineffectual or create a hazard to persons, plants or property.

(7) No spraying of pesticides shall be done when air temperature is less than 40° Fahrenheit.

(8) All spray machines other than pump up hand sprayers must have agitators capable of maintaining a uniform spray solution at all times when spray application is in progress.

(9) Adequate precautions shall be taken in all phases of spray application concerning any factors of toxicity, phytotoxicity, chemical reaction or residual action pertaining to any spray materials used.

(10) Applicators applying chemical pesticides to public trees shall adhere to all federal and state laws and regulations pertaining to pesticides and their application.

(Ord. No. 326, 8-7-95)

Sec. 62-45. Overhead lines--Trimming permits.

(1) The administrator shall grant permission to public utilities to trim and keep trimmed all trees within the streets, alleys, parks, and public places of the city, in such a manner as shall keep the overhead lines of such public utilities safe and accessible.

(2) A permit for such work shall be required and reasonable prior notice shall be given to the city before any work is commenced. Such trimming shall be done in accordance with approved practices and under the general direction of the administrator.

(3) Provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of said public utilities, prior notice of commencing work under said permit shall not be required. The word "emergency" as used in this article, shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

(Ord. No. 326, 8-7-95)

Secs. 62-46--62-74. Reserved.