

Muskegon Heights, MI - Tree Ordinance

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ARTICLE II. TREES

DIVISION 1. GENERALLY

Sec. 86-26. 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:

Department means the department of cemetery and parks of the city.

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

Prohibited species means any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*) and box elder (*Acer Negundo*).

Public utility means 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 means all the land lying between property lines on either side of all streets, highways, and boulevards in the city.

Superintendent means superintendent of the department.

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

(Code 1965, § 3.31(1)--(6))

Cross references: Definitions generally, § 1-2.

Sec. 86-27. Applicability of chapter.

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.

(Code 1965, § 3.31(7))

Sec. 86-28. Responsibility for article enforcement.

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

(Code 1965, § 3.32)

Sec. 86-29. Permits for planting, care and removal.

The superintendent shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal of such trees, subject to the regulations contained in this article. The owner of land abutting on any street may, upon obtaining prior written permission of the superintendent, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a tree, the superintendent is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance

with regulations established by the department and assume all or any part of the costs of removing such tree.

(Code 1965, § 3.33)

Sec. 86-30. Public tree removal.

The department shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The superintendent may remove or cause or order to be removed, any tree or part of such tree which is in an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the superintendent shall, if practicable, replace the tree, plant or shrub at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

(Code 1965, § 3.34)

Sec. 86-31. Spacing of shade trees.

Future plantings of shade and ornamental trees in the streets, parks and public places of the city may be done by the department upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the city council insofar as such rules and regulations do not conflict with any other provisions of this article. No future planting of shade and ornamental trees or shrubs in the highways, parks and public places by owners or anyone employed by them shall be permitted without the approval of the superintendent and in compliance with the following rules as to spacing: Elm trees shall be spaced not less than 40 feet, oak trees not less than 35 feet, and other shade and ornamental trees not less than 30 feet; provided, however, that any owner of a single lot may, in order to provide a shade or ornamental tree in front of his lot, secure special permission from the department to plant a shade or ornamental tree within a less distance from an existing tree than the spacing mentioned in this section, but shall in no case make special planting within 20 feet of any existing shade or ornamental tree located in the street or other public place. No tree shall be planted in parkways between the curb and sidewalk less than 3 1/2 feet from the curbline, nor less than three feet from the sidewalk; provided, however, that where the parkways are less than six feet, six inches in width, any trees planted therein shall be located not less than two feet, six inches from the curb and as near midway between the curb and sidewalk as possible. No tree shall be planted nearer to the intersection of any streets than 20 feet from the corner of such intersection.

(Code 1965, § 3.35)

Sec. 86-32. Tree protection.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten feet of any tree, or permit any fire, or the heat of a fire, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor except by special written permit from the superintendent, and no sign, poster, notice or other material shall be attached or fastened to or hung on any tree. All persons having under their care, custody or control,

facilities which may interfere with the trimming or removal of any tree, shall, after notice of same by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.
(Code 1965, § 3.36)

Sec. 86-33. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the superintendent. Any person making such excavation or construction shall guard any tree within six feet of such excavation or construction with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree.
(Code 1965, § 3.37)

Sec. 86-34. Covering surface near trees.

No person shall place within the street right-of-way any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location.
(Code 1965, § 3.38)

Sec. 86-35. Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.
(Code 1965, § 3.39)

Sec. 86-36. Lawn extensions.

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this article. No person shall willfully injure or destroy any grass, flower, tree or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.
(Code 1965, § 3.47)

Sec. 86-37. Overhead lines; trimming permits.

The superintendent 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. Such trimming shall be done in accordance with approved practices and under the general direction of the department. Such permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced under such permit; provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of the public utilities, prior notice of commencing work under the permit shall not be required. The word "emergency" as used in this section, 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.

(Code 1965, § 3.48)

Sec. 86-38. Rules and regulations.

The superintendent shall make such rules and regulations supplementary to this article and not in conflict herewith, as he may from time to time deem necessary. No person shall fail to obey any rule or regulation effective under this article.

(Code 1965, § 3.49)

Sec. 86-39. Violation of article as municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction.

(Ord. No. 491, § 4(3.50), 7-24-95)

Secs. 86-40--86-55. Reserved.

DIVISION 2. PRIVATE TREES

Sec. 86-56. Clearance.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the sidewalk and any part of the street right-of-way, except the roadway, and at least 12 feet above any roadway or part of any street intended for vehicular traffic. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign. Such trimming shall be confined to the area immediately above the right-of-way.

(Code 1965, § 3.40)

Sec. 86-57. Corner clearance.

All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of 20 feet each way from the intersection of the right-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than 30 inches in height from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section or section 86-56, shall be notified by the superintendent in the manner provided in section 1-10, to do so, and such notice shall require trimming in conformity with this section within ten days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done and the cost may be collected from the owner of such property as a single lot assessment in accordance with sections 122 to 126 inclusive of the city Charter.

(Code 1965, § 3.41)

Sec. 86-58. Diseases and infestations.

When the superintendent shall discover that any **tree** growing on private property within the city is afflicted with any dangerous and infectious insect infestation or **tree** disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, in the manner specified in section 1-10, describing the **tree**, its location and the nature of the infestation or **tree** disease, and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading of same, 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 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 such notice.

(Code 1965, § 3.42)

Sec. 86-59. Dutch elm disease.

Every elm **tree**, regardless of species 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 superintendent shall learn of the condition and, if on private property, within ten days after notice as specified in section 86-58. No person shall possess, sell, give away or transport any elm **tree** afflicted with the fungus ceratostomella ulmi nor any wood from, or parts of, any **tree** so afflicted.

(Code 1965, § 3.43)

Sec. 86-60. Appeals.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the superintendent requiring the treatment 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 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.

(Code 1965, § 3.44)

Sec. 86-61. Owner's failure to comply with orders of superintendent; abatement by city; billing; lien upon failure to pay.

In case the owner, agent and occupant of the property refuses to carry out the order of the superintendent within the time limited, or in case of an appeal, within five days after the council shall have affirmed such order, the superintendent shall carry out the pruning, spraying or destruction of the **trees** as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost of such treatment. In case the owner of such property shall fail to pay such bill within 60 days after the same has been rendered, the superintendent shall report the same to the city council for collection as a single lot assessment against the property in accordance with the city Charter. The superintendent may, without serving the notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause **trees** growing on private property to be sprayed when he deems the spraying necessary on account of any infestation or disease of such **trees**.

(Code 1965, § 3.45)

Sec. 86-62. Inspection.

The superintendent and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any **trees**, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any **tree**, shrub, or plant or fruit or injury to the same, if done by the superintendent or under his direction, in accordance with this article.

(Code 1965, § 3.46)

Secs. 86-63--86-80. Reserved.