

City of East Lansing, MI

Chapter 48 VEGETATION*

***Cross references:** Environment, ch. 14; manufactured homes and trailers, ch. 24; noxious weeds, § 26-341 et seq.; parks and recreation, ch. 28; streets, sidewalks and other public places, ch. 38; subdivisions and other land divisions, ch. 40; zoning, ch. 50.

Article I. In General

Secs. 48-1--48-30. Reserved.

Article II. Trees and Shrubs

Division 1. Generally

[Sec. 48-31. Authority of city engineer.](#)

[Sec. 48-32. Approval of planting.](#)

[Sec. 48-33. Distance from sewer connections.](#)

[Sec. 48-34. Permit required for work on trees in public places; protection of public safety.](#)

[Sec. 48-35. Injuring trees in public places.](#)

[Sec. 48-36. Corner clearance.](#)

[Sec. 48-37. Boxelder bugs.](#)

[Sec. 48-38. Appeals.](#)

[Sec. 48-39. Trimming permits for public utilities.](#)

[Sec. 48-40. Authority to make additional regulations.](#)

[Sec. 48-41. Civil penalty; enforcement.](#)

Secs. 48-42--48-60. Reserved.

Division 2. Private Trees

[Sec. 48-61. Distance from street.](#)

[Sec. 48-62. Trimming.](#)

[Sec. 48-63. Diseases and infestations.](#)

[Sec. 48-64. Performance of work by city.](#)

[Sec. 48-65. Inspections and work on private premises by city engineer.](#)

Secs. 48-66--48-90. Reserved.

Division 3. Tree Removal and Land Clearing

[Sec. 48-91. Findings.](#)

[Sec. 48-92. Purpose.](#)

[Sec. 48-93. Definitions.](#)

[Sec. 48-94. Permit required.](#)

[Sec. 48-95. Permit issuance.](#)

[Sec. 48-96. Appeals.](#)

[Sec. 48-97. Permit application requirements.](#)

[Sec. 48-98. Penalties and enforcement.](#)

ARTICLE II. TREES AND SHRUBS

DIVISION 1. GENERALLY

Sec. 48-31. Authority of city engineer.

The city engineer is hereby empowered to superintend, regulate, and encourage the preservation, culture, and planting of shade trees, plants, and shrubs upon public highways and public parks in the city, and to direct the method and time of trimming the same; to advise, without charge, owners and occupants of lots regarding the kind of trees, plants, and shrubs, and the method of planting best adapted to, and most desirable on, particular streets and public highways; and to take such measures as may be deemed necessary for the control and extermination of insects, pests, and plant diseases which may injuriously affect trees, plants, and shrubs that are now growing, or hereafter may be growing, on the public highways and parks of the city.

(Code 1994, ch. 36, § 3.11)

Sec. 48-32. Approval of planting.

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

(1) That such tree is one of the following varieties: green ash, althea, American elm, hackberry, Norway maple, sugar maple, Schwedler maple, mountain ash, column Norway maple, column linden, sycamore maple, hornbeam, black maple, sweet gum, oak, flowering crabapple, or ginkgo.

(2) That such tree is such distance from every other tree as shall be prescribed by regulation adopted by the city engineer.

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

(4) That such tree, when planted, has a diameter of at least one inch at a distance of one foot above the ground.

(Code 1994, ch. 36, § 3.12)

Sec. 48-33. Distance from sewer connections.

No person shall plant any tree other than one of the varieties enumerated in section 48-32(1) within 20 feet of any sewer connection.

(Code 1994, ch. 36, § 3.14)

Sec. 48-34. Permit required for work on trees in public places; protection of public safety.

No person shall remove, destroy, break, cut, deface, or trim any tree growing in any highway or park in the city without first obtaining a permit from the city engineer, which permit shall state the work to be done under it and the time within which it is to be done; and no person shall remove, destroy, or trim any such tree under any permit unless proper

precautions, approved by the city engineer, are taken to insure the safety of the public while such tree is being removed, destroyed, or trimmed.

(Code 1994, ch. 36, § 3.16)

Cross references: Streets, sidewalks and other public places, ch. 38.

Sec. 48-35. Injuring trees in public places.

(a) No person shall climb any tree growing in any highway or park in the city, or walk upon the branches thereof, while wearing spurs, unless such is in the act of removing such tree.

(b) In the erection, alteration, repair, or removal of any building or structure, the owner or owners thereof shall place, or cause to be placed, such guards around all nearby trees on the public highway as will effectually prevent injury to such trees.

(c) No person shall attach or connect any electric or other wire to any tree in a highway or park in the city, or permit any such wire to come in contact with any such tree.

(d) No person shall attach any sign, placard, or poster to any tree growing in any highway or park.

(Code 1994, ch. 36, § 3.17)

Cross references: Streets, sidewalks and other public places, ch. 38.

Sec. 48-36. Corner clearance.

No person shall maintain any hedge or shrub along the sidewalk abutting his/her premises or within 40 feet of the nearest right-of-way line of any intersecting street, at a height greater than three feet above the surface of the street, nor shall any such person fail to keep such hedge trimmed to the right-of-way line. No person shall maintain any hedge, shrub, or tree anywhere upon his/her premises which interferes with the clear view of traffic by drivers approaching an intersection.

(Code 1994, ch. 36, § 3.18)

Sec. 48-37. Boxelder bugs.

(a) *Trees on private property.* Any female boxelder tree which is or could be the breeding or feeding place for boxelder bugs (*Leptocoris trivittas*) is hereby declared to be a public nuisance, and it shall be unlawful for any person to maintain the same on their property after notification as provided in section 48-63.

(b) *Trees in public places.* Any such trees located on public lands within the limits of the city shall be removed at city expense and under the direction of the city engineer.

(Code 1994, ch. 36, §§ 3.20, 3.21)

Sec. 48-38. Appeals.

In case the owner, agent, or occupant of the property shall feel himself/herself aggrieved at an order of the city engineer requiring the treatment or destruction of any tree, he/she may within 48 hours make an appeal to the city council by communication filed 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.

(Code 1994, ch. 36, § 3.22)

Sec. 48-39. Trimming permits for public utilities.

The city engineer shall annually issue permits granting 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 city engineer. Said permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder, 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 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 1994, ch. 36, § 3.25)

Cross references: Utilities, ch. 46.

Sec. 48-40. Authority to make additional regulations.

The city manager, subject to the approval of the city council, shall make such rules and regulations supplementary to this article, and not in conflict herewith, as he/she may, from time to time, deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of the ordinance from which this article is derived shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

(Code 1994, ch. 36, § 3.26)

Sec. 48-41. Civil penalty; enforcement.

(a) Any person found responsible for a violation of this article shall be responsible for a municipal civil infraction as defined by MCL 600.113 punishable by a civil fine of not less than \$25.00 for the first offense, \$50.00 for the second offense, or \$250.00 for a third or subsequent offense, plus costs, damages, expenses, and further orders as provided by section 1-13 of this Code.

(b) Cases commenced under this article shall, to the extent applicable, be commenced by the issuance of a citation to the alleged violator as in the manner provided by MCL 600.8707 and shall contain the information required and be processed under the provisions of MCL 600.8709 and MCL 600.8711. Limited duty parking and property maintenance officers appointed by the city manager and assigned to enforcement of the provisions of this article under the supervision of the chief of police shall be authorized to issue and serve appearance tickets with respect to any violation of this article.

(Code 1994, ch. 36, § 3.27)

Secs. 48-42--48-60. Reserved.

DIVISION 2. PRIVATE TREES

Sec. 48-61. Distance from street.

No person shall plant any tree on any premises abutting any highway unless the distance from the center of the trunk of such tree to the inside edge of the sidewalk is not less than six feet.

(Code 1994, ch. 36, § 3.13)

Cross references: Streets, sidewalks and other public places, ch. 38.

Sec. 48-62. Trimming.

No person shall maintain upon any lot of which he/she is the owner, either individually or as one of two or more tenants in common, joint tenants, or tenants by the entirety, any tree which is so located as to extend its branches over the public alley or highway, unless the same shall be kept so trimmed that there shall be a clear height of not less than 12 feet above the portion of the surface of the alley or highway used for vehicular traffic, and not less than seven feet above all sidewalks, unobstructed by branches; and no such person shall fail to remove all dead branches or stubs on such tree or trees which are, or may become, a menace to travelers on a street.

(Code 1994, ch. 36, § 3.15)

Sec. 48-63. Diseases and infestations.

When the city engineer 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/she shall forthwith serve a written notice upon the owner or his/her agent, or the occupant of the property, 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 thereof, 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 such notice.

(Code 1994, ch. 36, § 3.19)

Sec. 48-64. Performance of work by city.

In case the owner, agent, and occupant of the property refuse to carry out the order of the city engineer within the time limit, or in case of an appeal, within five days after the council shall have affirmed such order, the city manager shall carry out the pruning, spraying, or destruction of the trees as deemed necessary by him/her and shall bill the owner, agent, or occupant of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within 30 days after the same has been rendered, the city manager shall report the same to the city council for collection as a single lot assessment against said property in accordance with the Charter. The city engineer may, without serving the above 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/she deems the same necessary on account of an infestation or disease or threat thereof.

(Code 1994, ch. 36, § 3.23)

Sec. 48-65. Inspections and work on private premises by city engineer.

The city engineer and his/her assistants 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, plant, or fruit, nor injury to the same, if done by the city engineer or under his/her direction, in accordance with this article.

(Code 1994, ch. 36, § 3.24)

Secs. 48-66--48-90. Reserved.

DIVISION 3. TREE REMOVAL AND LAND CLEARING

Sec. 48-91. Findings.

The city council finds the following:

- (1) Regulation of the removal or alteration of trees, shrubs, forest resources, other forms of existing vegetation and topography will protect important physical, aesthetic, recreational, and economic assets for both present and future generations of the City of East Lansing; and
- (2) Trees, shrubs, forest resources, and other forms of existing vegetation are essential components to the general welfare of the city by providing natural beauty, natural character, recreational opportunities, and wildlife habitat and by protecting public health through the absorption of airborne pollutants and generation of oxygen, through the reduction of excessive noise pollution, through their cooling properties in the summer months and through their root systems, stabilizing the soil, playing an important and effective part in soil conservation, erosion control, and flood control; and
- (3) Disturbance or alteration of existing topography impacts drainage ways which can contribute to erosion and damage to adjacent properties if undertaken without prior site review to assure that proper measures are installed to prevent or reduce erosion or damage; and
- (4) In order to assure the adequate assessment and preservation of parcels in the course of granting of land use approvals under the East Lansing City Code, parcels must remain undisturbed by clearing, grading and removal of vegetation prior to the review and issuance of any permits, approvals, special use permits or variances; and
- (5) Incorporating existing mature trees and natural vegetation into new land use development enhances the quality of the environment for the occupants of the property, minimizes the costs to develop and landscape the property and minimizes adverse impacts on adjacent properties.

(Ord. No. 1047, § 9.301, 9-2-2003)

Sec. 48-92. Purpose.

Therefore, the purpose of this division is:

(1) To provide for the protection, preservation, and use of trees, shrubs, forest resources, and other forms of existing vegetation and to minimize adverse impacts and loss of resource value in the removal of vegetation and alteration of existing topography.

(2) To provide for the paramount public concern for these natural resources in the interest of the health, safety, and general welfare of the residents of the city, in keeping with Article IV, Section 52 of the Michigan Constitution of 1963, and the intent of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, as amended).

(3) To provide compliance with Part 17, Michigan Environmental Protection Act (1994 PA 451, as amended), which authorizes government agencies and political subdivisions of this state to adopt and enforce standards, to prevent or minimize the pollution, impairment or destruction of the natural resources that is likely to be caused by any person.

(4) To provide for the protection of the general health, welfare, and safety of the city pursuant to the Michigan Home Rule Cities Act, MCL 117.1, et seq. and the City Charter.

(5) To provide that a complete and accurate site assessment be required under the East Lansing City Code prior to disruption or alteration of natural site conditions and resources by any permitted land use activity.

(6) To enhance the environmental quality of new development and the city and minimize adverse impacts between adjacent uses.

(Ord. No. 1047, § 9.302, 9-2-2003)

Sec. 48-93. Definitions.

For the purpose of this division, the following words and phrases shall have the meanings as hereafter set forth.

City engineer means director of public works and environmental services of the city or his duly authorized representative.

Diameter means the diameter of a tree as measured at four and one-half feet above grade level.

Land clearing means the cutting, mowing, plowing or removal of trees, shrubs, grasses, or other naturally-occurring vegetation, except the mowing of established lawn areas.

Root zone means the area surrounding a tree equivalent to one and one-half times the height of the tree.

Shrub A low, usually several-stemmed, woody plant.

Tree removal means the cutting, removal, or transplanting of a tree four inches or larger in diameter; or the severe trimming, pruning or girdling of such a tree which substantially reduces the health and longevity of the tree; or the plowing, grading, filling, or excavating of land within the root zone of a tree which destroys the root system necessary to maintain the health and longevity of the tree.

(Ord. No. 1047, § 9.303, 9-2-2003)

Sec. 48-94. Permit required.

(a) *A tree removal/land clearing permit shall be obtained from the city engineer prior to:*

- (1) Any removal of one or more trees which are four inches in diameter or larger.
 - (2) Land clearing of an area of one-half acre or larger.
 - (b) *Exceptions:*
 - (1) Removal of trees or shrubs on lots that are 2 acres in size or smaller and are zoned in the R-1, R-2, R-3, RM-8, RM-14 or RM-32 districts and are used for single family or two-family dwellings.
 - (2) Removal of dead trees or shrubs, after verification by the city engineer.
 - (3) Removal of trees or shrubs substantially damaged by wind storms, flooding, fire, snow or ice, after verification by the city engineer. Such verification may be made by the city engineer on a citywide or area-wide basis following a "declared" public disaster or emergency.
 - (4) Removal of trees or shrubs substantially damaged by insect infestations or disease, after verification by the city engineer.
 - (5) Removal of trees or shrubs as necessary to survey or maintain public streets, sidewalks and rights-of-way, public utility services and easements, and public drains and easements, accomplished by or on behalf of the city, public utility companies, the Ingham County or Clinton County Road Commission, the Ingham County or Clinton County Drain Commissioners, the Michigan Department of Transportation.
 - (6) Ongoing cultivation activities on the premises of an established nursery or orchard.
 - (7) Routine trimming of trees or shrubs necessary to protect utility lines or structures, to maintain appropriate physical and visual clearance, or to enhance the shape and vitality of the trees or shrubs.
 - (8) Removal of any noxious tree, shrub, plant, or weed which is declared a nuisance and ordered to be abated by the city engineer or city manager pursuant to chapters 48 and 26 of this Code.
 - (9) The mowing of weeds or other plant growth as required by section 6-175 of the Property Maintenance Code of chapter 6 of this Code.
 - (10) A farming operation as defined by the Michigan Right to Farm Act, MCL 286.472 which has been approved by the planning and zoning administrator in accordance with the provisions of chapter 50.
 - (11) The clearing of paths as may be nominally necessary to survey the property, subject to approval of the city engineer.
- (Ord. No. 1047, § 9.304, 9-2-2003)

Sec. 48-95. Permit issuance.

A tree removal/land clearing permit shall be issued by the city engineer:

- (1) In conjunction with the issuance of a grading/soil erosion and sedimentation control permit issued under chapter 34 for a site plan to develop property which has been approved in accordance with chapter 50 or chapter 40 of this Code.
- (2) Where the site has previously been developed in accordance with an approved site plan under chapter 50 or chapter 40 and no grading/soil erosion and sedimentation control permit is required, upon verification by the planning and zoning administrator that the proposed cutting is in compliance with the approved site plan

- (3) Upon approval by the planning commission subsequent to a public hearing based upon either of the following:
- a. The proposed tree removal or land clearance would not substantially affect/reduce:
 1. Privacy between adjacent properties.
 2. Screening/buffering between adjacent uses and activities.
 3. Wildlife habitat and movement.
 4. Soil and slope stability.
 5. Regulated wetlands.
 - b. The proposed tree removal or land clearance is necessary for the economic use of the property.
 - c. Conditions of approval. The planning commission may impose reasonable conditions on approval of a permit to ensure the standards in subsection a. above are met, including the planting of new trees or shrubs.
- (Ord. No. 1047, § 9.305, 9-2-2003)

Sec. 48-96. Appeals.

- (a) Any person aggrieved by the decision of the city engineer or planning commission may appeal the decision to the city council by filing a written statement containing the specific reasons for the appeal with the city clerk within ten calendar days following the date of the decision.
 - (b) Any person may seek a waiver of the requirements of this chapter by filing a request for review by the city council. The council may grant a total or partial waiver if it finds that proposed activity is not inconsistent with the purposes and intent of this chapter.
 - (c) The council shall hold a public hearing on the appeal or request for waiver and shall include opportunity for the appealing party to present their appeal and for the adjacent property owners and other interested parties to be heard.
 - (d) Notice of the time and place for consideration of an appeal or request for waiver shall be published not less than ten days prior to the date of the hearing. A notice shall also be sent by mail or personal delivery to the owners of the property considered in the appeal or request for waiver, and to all owners listed on the most recent tax roll of real property within 300 feet of the boundary of the property in question. Said notice to be sent not less than seven days prior to the hearing.
 - (e) The city council's decision on the appeal shall affirm, affirm with conditions, or reverse the decision of the city engineer or planning commission. The council's decision on the appeal or request for waiver shall be based on written findings.
- (Ord. No. 1047, § 9.306, 9-2-2003)

Sec. 48-97. Permit application requirements.

- (a) *Form and fee.* An application for a tree removal/land clearing permit shall be submitted on a form prescribed by the director of engineering and shall be accompanied by an application fee in an amount determined by resolution of city council.
- (b) The application shall be accompanied by a site survey showing:
 - (1) Existing and proposed grades at two-foot intervals.

- (2) Location, size and type of all trees four inches in diameter or larger, indicating those to be removed and those to be retained.
- (3) Boundaries of area to be clear cut and description (type and extent) of plant materials to be cut/removed.
- (4) Where wetlands may be present, based on the city's wetland inventory map, the boundaries of any wetland area on the site shall be determined by a qualified consultant; if any intended cutting or clearing activities would occur within a state regulated wetland, the boundaries must be verified by MDEQ.
- (5) Copy of permit from MDEQ for any intended activity within a state regulated wetland.
- (6) Inspection. The filing of the application shall constitute permission from the owner for the city or any consultant retained by it to conduct an on-site investigation.
(Ord. No. 1047, § 9.307, 9-2-2003)

Sec. 48-98. Penalties and enforcement.

Any person violating any of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the civil penalties, costs, damages, and expenses as provided in section 1-13 of this Code. In addition to the penalties assessed pursuant to section 1-13, any person who violates any provisions of this chapter shall forfeit and pay to the city a civil penalty of \$200.00 per inch for all trees four inches or larger which are cut down without a permit and \$10.00 per square yard for all areas of land cleared without a permit or contrary to the terms and conditions of any authorized permit. Such sum shall accrue to the city and may be recovered in a civil action brought by the city.

- (1) Replacement of illegally removed trees and shrubs may be required as restoration in lieu of the additional money damages provided in section 48-97(a) above. This replacement shall be accomplished by the replanting of removed trees at the rate of two new three-inch trees for each six inches of tree diameter or fraction thereof which is cut down and one new three-inch tree for each 200 square feet of clear cut area. A combination of money damages and tree replacement may be required.
- (2) The city engineer and his designee shall be authorized to issue and serve municipal civil infraction citations with respect to any violation of this chapter which is designated a municipal civil infraction.
- (3) If activities are conducted contrary to the provisions of this chapter or other applicable laws or ordinances, the city engineer shall give written notice to the person conducting the activity, notifying him of the violation of this chapter, or other applicable law or ordinance, ordering that the activity be stopped, and to appear and show cause why the activity should not be stopped. If the person conducting the activity fails to appear and show good cause within one full workday after notice is delivered, the city engineer shall cause a written order to stop the activity to be posted on the premises. A person shall not continue, or cause or allow to be continued, activity in violation of an order to stop, except with permission of the city engineer to abate a dangerous condition or remove the violation, or except by court order. If an order to stop is not obeyed, the city may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the order. This remedy is in addition to, and not in

limitation of, any other remedy provided by law or ordinance, and does not prevent prosecution for failure to obey the order. Any violation of a stop work order shall be deemed a misdemeanor and punished as provided in section 1-13 of this Code.
(Ord. No. 1047, § 9.308, 9-2-2003)