

City of Sterling Heights – Tree Ordinance

CHAPTER 51: VEGETATION

ARTICLE I. IN GENERAL

51-1. DEFINITIONS.

The word *TREES*, as used in this article, shall not be construed to include shrubs which do not grow higher than 15 feet; the words *PUBLIC HIGHWAY* shall be construed to mean all the land laying between private property lines on either side of all public streets, boulevards and alleys; and the words *PUBLIC PLACE* shall be deemed to mean any park, park lot, parkway or other property under the control or jurisdiction of the city.

(1978 Code, § 33-1)

51-2. APPLICATION FOR AND APPROVAL OF PERMITS REQUIRED BY ARTICLE.

Applications for any permit required by the provisions of this article shall be available in the office of the City Manager. No permit shall be granted until it has been approved by the City Manager or his or her designee.

(1978 Code, § 33-2)

Cross reference:

Permits generally, see [Ch. 29](#)

51-3. JURISDICTION OF CITY MANAGER WITH RESPECT TO TREES, PLANTS AND GRASSY AREAS IN PUBLIC PLACES.

The City Manager, or his or her designee, 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, and he or she may promulgate and adopt rules and regulations to effectuate the provisions of this article.

(1978 Code, § 33-3; Ord. No. 359, § 1, 1-2-02)

51-4. FAILURE OF PROPERTY OWNER OR OCCUPANT TO PERFORM WORK OR PAY MONIES REQUIRED BY ARTICLE.

If the owner or occupant of any premises fails to perform any duty and/or make any deposit or payment required of him or her by this article, the City Manager may serve notice upon the owner or occupant directing that the work be done and/or deposit or payment be received within 30 days. Upon his or her failure to comply with the notice, the city may enter upon the premises and perform the work required and charge the cost to the owner or occupant. If the City Council authorizes that an assessment for amounts due the city pursuant to this article be levied as a lien against the premises benefitted, the Treasurer shall take such action as is necessary to enable the city to impose the lien against the premises and collect the amounts due, including administrative and legal costs.

(1978 Code, § 33-4; Ord. No. 359, § 2, 1-2-02)

Cross reference:

Special assessments, see [Ch. 47](#)

51-5. INTERFERENCE WITH CITY PERSONNEL PERFORMING WORK REQUIRED BY ARTICLE.

It shall be unlawful for any person to prevent, delay or interfere or cause or authorize or procure any interference or delay with the City Manager or any of his or her employees, agents or servants, while they are engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees, plants or shrubs in or upon any public highway or public place or upon any private grounds, as authorized in this article, or in removing any device attached to such tree, plant or shrub as may be necessary for the protection and care of any such tree, plant or shrub in accordance with the requirements of this article.

(1978 Code, § 33-5) Penalty, see § [1-9](#)

51-6. GENERAL REGULATIONS FOR PLANTING, TRIMMING, ETC. TREES UPON PUBLIC HIGHWAYS AND PLACES.

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

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

(2) All trees from one and one-half to three 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 or more streets or within 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 City Manager or his or her designee;

(5) Trees shall hereafter be planted at least 30 feet apart, except when a special permit is obtained from the City Manager or his or her designee;

(6) No tree shall be planted where the clear space between the curb and the sidewalk is less than five feet;

(7) The trimming and care of trees shall be performed in accordance with the *Pruning Standards for Shade Trees* as adopted and amended by the National Arborists Association;

(8) No tree shall be planted where the soil is too poor to insure the growth of such tree, unless the owner excavates a suitable hole of not less than 36 cubic feet and replaces the material removed with suitable loam or soil stripped from pasture land;

(9) No tree shall be planted nearer than one foot from the curblines or outer line of the sidewalk, unless a special permit is granted by the City Manager or his or her designee;

(10) The general regulations shall be supplemented by the provisions of the city street tree and stump removal policy as adopted and amended by the City Manager and endorsed by the City Council.

(1978 Code, § 33-6; Ord. No. 359, § 3, 1-2-02)

Charter reference:

Authority of Council to regulate planting of trees and shrubbery in streets, see [§ 16.06](#)

51-7. CERTAIN TREES PROHIBITED WITHIN PUBLIC HIGHWAYS.

It shall be unlawful for any person to plant or have or keep growing a poplar, box elder, silver maple, elm, willow, horse chestnut, tree of heaven or catalpa tree within any public highway within the limits of the city; provided, however, existing trees shall be

allowed unless the City Manager or his or her designee determines that removal is appropriate in accordance with the city's street tree and stump removal policy.

(1978 Code, § 33-7; Ord. No. 359, § 4, 1-2-02) Penalty, see [§ 1-9](#)

51-8. PERMIT TO PLANT, REMOVE, ETC. TREES IN PUBLIC HIGHWAYS AND PLACES.

(A) No person, except the city, shall plant, remove or destroy any ornamental shade tree or shrub in any public highway or public place without first procuring a permit from the City Manager or his or her designee.

(B) No person shall cut, mutilate, remove, saw or trim any tree within any public highway or public place in the city to make room for any telegraph, telephone or electric lines, moving buildings or machinery or other things or for repairing sidewalks without first procuring a permit from the City Manager or his or her designee.

(C) If required under the provisions of the city street tree and stump removal policy, the owner or occupant shall pay the amount due for a replacement tree as approved by the Council in the annual appropriations ordinance.

(1978 Code, § 33-8; Ord. No. 359, § 5, 1-2-02)

51-9. PAYMENT REQUIRED FOR REMOVAL OF TREE FROM PUBLIC PLACE.

Any person desiring to remove a live tree from any public place for the construction of walks, drives, buildings or any other structures for his or her own benefit shall pay into the city tree fund monies equal to the value of the tree or trees removed, as computed from the International Society of Arboriculture shade tree value formula or substitute valuation formula designated by the City Manager or his or her designee.

(1978 Code, § 33-9; Ord. No. 359, § 6, 1-2-02)

51-10. TRIMMING TREES BY UTILITIES.

No person owning or operating any bus line or other motor transportation over the city streets or any public utility lines upon, above or below the surface shall trim, cut or cause to be trimmed or cut any tree, shrub or plant along any public highway or public place without first having submitted to the City Manager a plan of the work to be done and having procured a permit for such work. Nothing in this section shall be construed to apply to the removal, under the direction of the City Manager or his or her designee, of any stump, roots, tree, shrub, vine, plant or part thereof, wherever such removal shall be

found necessary in the construction or repair of any street, sidewalk, sewer, pavement or other public improvement.

(1978 Code, § 33-10; Ord. No. 359, § 7, 1-2-02)

51-11. ATTACHING WIRES, SIGNS, ETC., TO TREES IN PUBLIC HIGHWAYS OR HITCHING ANIMALS THERETO.

No person shall attach, tack or in any manner fasten to any tree in a public highway any wire, rope, chain, cable, sign, card, board, poster or other article or hitch any animal thereto.

(1978 Code, § 33-11; Ord. No. 359, § 8, 1-2-02)

Cross references:

Animals, see [Ch. 8](#);

Posting advertising matter generally, see §§ [3-16](#) et seq.

51-12. TRIMMING OF TREES, SHRUBS, ETC., NEAR PUBLIC HIGHWAYS.

The owner or person in charge or control of any lot or parcel of land within the city upon which any tree, shrub, vine or plant may be standing adjacent to any public highway shall trim or cause to be trimmed, either at the property line or to a clear height of at least eight feet above the surface of such public highway, all branches thereof which overhang any portion of such public highway or which obstruct or interfere with the passage of light from any street lighting system and shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets. The city may enter upon any such private premises to do such trimming as it determines necessary or to remove such obstructions herein prohibited upon the failure of the owner to do so after notice to him or her in writing. The said owner shall, or the city may, remove from such tree, shrub, plant or vine all dead, decayed, unsightly, broken or dangerous limbs and branches that overhang or are close to the public highway; and when any such tree, shrub, plant or vine is dead, the owner shall remove the same, or after such notice of such intention to the owner, the city may do so and charge the cost thereof to such owner.

(1978 Code, § 33-12; Ord. No. 359, § 9, 1-2-02)

Cross reference:

Shrubbery interfering with vision at street intersections, see zoning ordinance [§ 28.03](#)

51-13. IMPEDING PASSAGE OF WATER, AIR OR FERTILIZER TO ROOTS OF TREES AND PLANTS IN PUBLIC PLACES.

No person shall place or maintain upon the ground in any public highway or public place of the city any stone, brick, sand, concrete or other material or article which may injure or which may in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, shrub, vine or plant without leaving an open space of ground not less than four feet in diameter surrounding same.

(1978 Code, § 33-13; Ord. No. 359, § 10, 1-2-02)

51-14. PROTECTION OF TREES, PLANTS AND SHRUBS DURING CONSTRUCTION WORK.

In any excavation, or the erection, alteration or repair of any building or structure or other work, the owner thereof or someone for him or her shall place or cause to be placed such guards around all nearby trees, shrubs and plants in the public highway as will effectually prevent injury to them.

(1978 Code, § 33-14; Ord. No. 359, § 11, 1-2-02)

51-15. PLANTING OF TREE IN RIGHT-OF-WAY IN FRONT OF NEW DWELLING.

(A) Any person desiring a building permit for the construction of a new dwelling in the city shall, in the discretion of the City Manager, be required to, in the alternative, either:

(1) Deposit with the Office of Building Services the sum provided for in the annual appropriations ordinance for each permit issued, which shall be used by the City Manager or his or her designee to purchase a tree to be placed in the public right-of-way in front of the dwelling. Where the dwelling is located on a corner lot, a tree shall be placed in the public right-of-way in front and in the side yard of the dwelling. The City Manager or his or her designee shall have complete discretion as to the type of tree to be planted, the time of such planting and shall supervise the planting of the tree; or

(2) Deposit with the Office of Building Services a bond in the sum provided for in the annual appropriations ordinance for each permit issued to insure that the permittee shall plant a tree in the public right-of-way in front of the dwelling and a second tree in the public right-of-way in the side yard of corner lots. The City Manager or his or her designee shall have complete discretion as to the type of tree to be planted and the time of such planting. The bond shall be returned to the permittee one year from the date of the planting of such tree, if the tree is still living. If the tree has died or is dying, the bond

shall be forfeited to the city and shall be used by the City Manager or his or her designee to purchase a tree to be placed in the public right-of-way in front of the dwelling.

(B) Any tree planted by the city under the supervision of the City Manager or his or her designee shall be guaranteed by the city for a period of one year after the date of planting; provided however, that the city shall not be responsible for the replacement of trees which are damaged or destroyed by the acts or omissions of the abutting property owner.

(1978 Code, § 33-15; Ord. No. 277, § 1, 9-5-89; Ord. No. 359, § 12, 1-2-02)

Cross reference:

General provisions as to deposits required at time of issuance of building permit, see § [11-23](#)(114.6)

51-16. DESTRUCTION OF DISEASED TREES, ETC.

The owner or occupant of any premises on which is located any tree or other growth, if infected by disease or by injurious insects or in a dangerous condition, shall destroy same when such destruction is necessary for the protection of other trees and growth and for the public safety, health and welfare.

(1978 Code, § 33-16)

Charter reference:

Authority of Council to provide for the destruction of diseased trees and shrubbery on private property, see [§ 16.06](#)

51-17-51-26. RESERVED.

ARTICLE II. NOXIOUS WEEDS

51-27. DEFINITION.

For the purpose of this article, ***NOXIOUS WEEDS*** shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* 1.) and poison ivy (*rhus toxicodendron*), poison sumac (*toxicodendron vernix*) or other plant which, in the opinion of the city, is regarded as a common nuisance.

(1978 Code, § 33-27)

State law reference:

Control and eradication of noxious weeds, see M.S.A. §§ 9.631(1)-9.631(12); see M.C.L.

§§ 247.61-247.72

51-28. DUTY OF PROPERTY OWNERS AND OCCUPANTS TO CUT AND DESTROY.

(A) All owners, agents or occupants of property in subdivided areas in the city, which said areas shall have buildings erected on 60% of the lots in said subdivision, shall cut and destroy all noxious weeds on said premises.

(B) All owners, agents or occupants of lots along all improved streets in common usage shall cut and destroy all noxious weeds on said premises for a depth of ten rods (165 feet) or the depth of the lots, whichever is the lesser.

(C) All owners, agents or occupants of property adjacent to a subdivided area, which has buildings erected on 60% of the lots, shall cut and destroy all noxious weeds for a distance of at least 24 feet from the subdivision perimeter.

(1978 Code, § 33-28)

Charter reference:

Authority to require removal of noxious weeds, see § 12.02

51-29. CUTTING AND DESTRUCTION BY CITY.

In the event that the owner of any such property shall fail, after ten days notice as provided for in this article, to destroy such weeds or cause same to be destroyed, the City Manager or an official designated by the City Council may enter upon such lands and destroy, by cutting with or without mechanical equipment, which will not damage the property or the sidewalk adjacent thereto, any such weeds, and all expenses incurred in such destruction shall be paid by the owner or owners of such lands. The city shall have a lien upon such lands for such expenses, and such lien may be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

(1978 Code, § 33-29)

Cross reference:

Further provisions concerning the destruction of noxious weeds and assessments for cost thereof,

see §§ [47-19](#) et seq.

51-30-51-35. RESERVED.

ARTICLE III. TREE PRESERVATION

51-36. PURPOSE.

(A) Rapid growth, the spread of development and increasing demands upon natural resources have had the effect of encroaching upon, despoiling or eliminating many of the trees and other forms of vegetation and natural resources and associated processes which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreational and economic assets to existing and future residents of the city. Specifically, the city finds that woodlands and trees:

(1) Protect public health by absorbing air pollutants and contamination, by providing buffering to reduce excessive noise, wind and storm impacts and by maintaining visual screening with its accompanying cooling effect during the summer months;

(2) Provide for public safety through the prevention of erosion, siltation and flooding;

(3) Contribute significantly to the general welfare of the city by providing natural beauty and recreational opportunities for existing and future residents; and

(4) Are matters of paramount public concern, as provided by Article IV, Section 52 of the Michigan Constitution of 1963, and the Environmental Protection Act of 1970, Public Act 127 of 1970 (M.C.L. §§ 691.1201 et seq., M.S.A. §§ 14.528 (201) et seq.), as amended.

(B) The purposes of this article are to:

(1) Provide for the protection, preservation, replacement, proper maintenance and use of desirable trees and woodlands located in the city in order to minimize disturbance to them and prevent damage from erosion and siltation and loss of wildlife habitat and vegetation, consistent with rights of a developer or property owner to reasonably develop or use his or her property in an economically viable manner. It is the intent of this article to require a developer desiring to develop any project to perform a tree survey prior to development to enable the developer and the city to evaluate what

woodlands and trees are desirable and worthy of preservation, considering the number of trees, their species, condition, and location, and the likelihood of their continued long-term viability after completion of the improvements in the development. It is the intent of this article to balance the community's interest in preserving desirable woodland areas as a whole which serve as part of an ecosystem, with the rights of a developer to develop or use his or her property in a reasonable, economically productive manner;

(2) Protect the woodlands and trees of the city in order to support local property values and to promote the natural beauty of the city;

(3) Prevent owners or developers of property from removing trees from land prior to or in anticipation of development;

(4) Provide for the replacement of trees removed where no feasible alternative site development is available; and

(5) Respond to the public concern for the preservation of these natural resources in the interest of health, safety and general welfare of the residents of the city.

(1978 Code, § 33-36; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 1, 5-17-05)

51-37. DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF ORDINANCE APPEALS. The Board of Ordinance Appeals of the city created pursuant to § 2-150.30 of the City Code.

BUILDER. A person who builds or contracts to build a building or structure within the city.

BUILDING ENVELOPE. The area designated by the developer or builder for the construction of the principal building(s) upon the site in accordance with the following.

(1) *In platted residential subdivisions or residential site condominiums.* The buildable area remaining on the lot, parcel or unit after complying with zoning setback and maximum lot or site coverage requirements or such smaller building area designated by the developer for construction of buildings upon a lot, parcel or unit within the development.

(2) *In all other developments.* The building area(s), plus ten feet around the perimeter of the building(s), provided such areas do not encroach into any required setback.

CITY MANAGER. The City Manager of the city or his or her designate.

COMMERCIAL NURSERY or TREE FARM. A plant or tree nursery or farm in which trees are planted and grown for sale to the general public in the ordinary course of business.

CRITICAL ROOT ZONE. The area where a tree's roots are located. The **CRITICAL ROOT ZONE** is described by a circle around the tree with a radius of one foot for each inch of diameter at breast height.

DEVELOPER. A person who installs or contracts for the installation of improvements such as sewers, streets and water mains in a residential, office, commercial or industrial development.

DEVELOPMENT. Any lawful site improvement authorized by the zoning ordinance.

DIAMETER BREAST HEIGHT (D.B.H.). A tree's diameter in inches measured four and one-half feet above the ground.

DRIP LINE. An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

DRIVEWAY ENVELOPE. An area designated by the developer or builder not more than 20 feet in width to provide vehicular access to the building or parking areas.

GROUND COVER. Low growing shrubs, wood vegetation, wild flowers and other small herbaceous plants within a woodland area.

GRUBBING. The effective removal of understory vegetation, groundcovers, shrubs or trees but not including removal of any trees of greater than three inches d.b.h.

LAND CLEARING. Operations which remove trees and vegetation in connection with the installation of storm or sanitary sewers, public or private utilities, streets and any other clearing or grading of the property at any time prior to construction of a building.

LANDMARK TREE. A tree that is naturally prevalent in the city and surrounding areas and that stands apart from neighboring trees due to unique characteristics such as size and species and will not be removed unless absolutely necessary. All trees 32 inches d.b.h. and greater and trees included in the following table of the specified size or greater are considered **LANDMARK TREES**.

| <i>Common Name</i> | Species | Size D.B.H. |
|--------------------|---------|-------------|
|--------------------|---------|-------------|

| | | |
|---------------------------|----------------------------------|----|
| American Basswood | <i>Tilia americana</i> | 24 |
| American Beech | <i>Fagus grandifolia</i> | 18 |
| American Chestnut | <i>Castanea dentate</i> | 8 |
| Birch | <i>Betula spp.</i> | 18 |
| Black Alder | <i>Alnus glutinosa</i> | 12 |
| Black and White Walnut | <i>Juglans nigra, J cirnerea</i> | 20 |
| Buckeye | <i>Aesculus glabra</i> | 18 |
| Cedar, red | <i>Juniperus spp.</i> | 12 |
| Crabapple (cultivar) | <i>Malus spp.</i> | 12 |
| Eastern Hemlock | <i>Tsuga canadensis</i> | 12 |
| Flowering Dogwood | <i>Conus florida</i> | 8 |
| Ginkgo | <i>Ginkgo biloba</i> | 18 |
| Hickory | <i>Carya spp.</i> | 18 |
| Horse Chestnut | <i>Aesculus carnea</i> | 18 |
| Kentucky Coffeetree | <i>Bymnociadus dioicus</i> | 18 |
| Larch/Tamarack | <i>Larix laricina (Eastern)</i> | 12 |
| Locust | <i>Gleditsia triacanthos</i> | 24 |
| London Planetree/Sycamore | <i>Plantanus spp.</i> | 18 |
| Maple | <i>Acer spp.</i> | 18 |
| Oak | <i>Quercus spp.</i> | 16 |
| Pine | <i>Pinus spp.</i> | 18 |
| Sassafras | <i>Sassafras albidum</i> | 15 |
| Spruce | <i>Picea spp.</i> | 18 |
| Tuliptree | <i>Liriodendron</i> | 18 |
| Wild Cherry | <i>Prunus spp.</i> | 18 |

LOCATE. To construct, place, insert or excavate.

MATERIAL. Soil, sand, gravel, clay, peat, mud, debris, refuse or other material, organic or inorganic.

OPERATIONS. Locating, moving, depositing or grading of any material or any construction, use or activity or combination of such activities which modifies the conditions of property subject to this article.

PERSON. An individual, partnership, corporation, association, organization or other legal entity, including governmental agencies.

PLANNING COMMISSION. The Planning Commission of the city established pursuant to § 2-101 of the City Code.

REGULATED TREE. Any self-supported, woody plant of a species which normally grows to an overall height of 13 feet or more, including coniferous and deciduous trees, and has a d.b.h. of six inches or more.

REMOVE or REMOVAL. The act of removing a tree by digging up or cutting down or the effective removal through damage.

RESIDENTIAL DEVELOPMENT. Any one-family or multiple-family residential development, including one-family residential subdivision, one-family cluster housing, residential condominiums, residential site condominiums and multiple-family developments.

STRUCTURE. Any assembly of materials above or below the surface of the property, including but not limited to residences, buildings, sheds, swimming pools and other fixtures attached to the ground.

TREE. Any self-supported, woody plant of a species which normally grows to an overall height of 13 feet or more, including coniferous and deciduous trees.

TREE SURVEY. A minimum one inch to 100 feet scale drawing that provides the location of all trees of six inches or greater d.b.h., plotted by accurate techniques, including the common or botanical name of those trees and their d.b.h.

UNDEVELOPED. A parcel of land which is substantially unimproved with buildings or structures on May 22, 2005.

WOODLAND. Any property containing one or more acres (excluding existing rights-of-way) which has been designated as a woodland on the official woodlands map. The term **WOODLAND** includes all trees, shrubs and groundcover located upon such property (regardless of size).

WOODLANDS MAP. The map approved by the City Council identifying all woodland areas in the city.

(1978 Code, § 33-37; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 2, 5-17-05)

51-38. APPLICATION OF ARTICLE.

This article shall apply to any parcel of property which is undeveloped on May 22, 2005, or to any parcel of property that is located in any zoning district other than a single-family residential district, unless the development has received (1) preliminary site plan approval within one year of May 22, 2005, or (2) tentative preliminary or final preliminary plat approval which has not yet expired.

(1978 Code, § 33-38; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 3, 5-17-05)

51-39. TREE REMOVAL PERMITS.

(A) *Permit required.* Except as provided in § 51-40, no person shall do any of the following without first having obtained a tree removal permit in accordance with the provisions of §§ 51-41, 51-42 and 51-43:

- (1) Remove, damage or destroy any tree or similar woody vegetation of any d.b.h. in a woodland;
- (2) Remove, damage or destroy any tree or similar woody vegetation of six inches d.b.h. or greater which is not located in a woodland;
- (3) Remove, damage or destroy any landmark tree; or
- (4) Conduct any land clearing activities.

(B) *Development on parcels of one acre or greater.* The following requirements shall apply to all property containing one or more acres upon which any operations as defined herein are undertaken after May 22, 2005:

- (1) The developer of any development which requires site plan approval under the zoning ordinance shall, as part of the permit approval under this article, identify the location of all proposed streets, loading and unloading areas, off-street parking areas and maneuvering lanes providing general circulation within the development. In addition, the developer shall designate envelopes for the construction of buildings, driveways, known accessory structures and other proposed on-site improvements to be made. Once a tree removal permit has been obtained by the developer for these areas, no additional tree removal permit shall be required for erection of a structure or the installation of improvements within an approved envelope. Only activities which extend beyond the confines of the envelopes shall require additional tree removal permits;

(2) Except as provided in § 51-44, the developer of one or more acres shall preserve and leave standing a minimum of 37% of the total number of regulated trees within the development. The Planning Commission (or such other body or administrative official approving the final development) may reduce the preservation requirement if the developer can provide evidence satisfactory to such body or administrative official that unique conditions present on the site or the characteristics of the proposed use make development of the land economically unfeasible without removing additional trees. Trees contained within building envelopes of proposed single-family residential lots or units may not be used to satisfy the minimum preservation percentage;

(3) Where a developer has submitted and obtained approval of a tree preservation plan at the same time as tentative preliminary plat approval of a subdivision, or preliminary site plan approval for any other development, such tree preservation approval, together with any additional terms and conditions attached to the approval, shall satisfy the requirements of this article.

(C) *Tree removal permits in conjunction with construction by buildings on building sites.* A builder who wishes to clear any property or construct any building upon a site which is subject to the provisions of this chapter as specified in § 51-38 or perform any operation within a woodland which is regulated by this chapter must first obtain a tree removal permit in order to remove, damage or destroy any tree of six inches d.b.h. or greater from the property or work within a woodland as designated on the official woodlands map. This requirement shall not apply to a builder who is constructing a building or known accessory structure or is installing a site improvement in an envelope for which the developer has previously obtained approval.

(1978 Code, § 33-39; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-A, §§ 1-3, 8-20-91; Ord. No. 292-C, § 4, 5-17-05)

Cross reference:

Licenses and permits, see [Ch. 29](#)

51-40. EXCEPTIONS.

Notwithstanding the provisions of § 51-39, the following activities are permitted without a tree removal permit unless otherwise prohibited by statute or ordinance:

(1) On owner-occupied single-family residential parcels located in non single-family residential zoning districts, the removal of five regulated trees per calendar year or not more than 5% of the total number of regulated trees on the lot or parcel, whichever is greater, is permitted without requiring a tree removal permit. This exception shall not apply to landmark trees;

(2) The removal or trimming of any trees by or on behalf of a resident owner of a one-family dwelling unit, one-family cluster housing unit, site condominium unit or residential condominium unit from an area under the owner's exclusive control. This exception shall not apply to removal of trees from common areas;

(3) The removal of or trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities;

(4) The removal or trimming of trees if performed by or on behalf of the city, Macomb County Road Commission, Michigan Department of Transportation and Macomb County Public Works Office or other public agencies or a public utility company in a public right-of-way upon public property or upon a private easement for public utilities in connection with a publicly awarded construction project, the installation of public streets or public sidewalks or installation of public utilities within a private or public easement established for such purposes;

(5) The trimming and pruning of trees as part of normal maintenance of landscaping or orchards, if performed in accordance with accepted forestry or agricultural standards and techniques;

(6) The removal or trimming of dead, diseased, undesirable, or damaged trees if performed by or on behalf of the city, Macomb County Road Commission, Michigan Department of Transportation or Macomb County Public Works Office or other public agencies in a public right-of-way or upon public property if done to prevent injury or damage to persons or property. An ISA certified arborist, municipal forester, or state registered forester must verify the condition of dead, diseased, or damaged trees prior to their removal;

(7) The removal or trimming of dead, diseased, undesirable, or damaged trees provided that the damage resulted from an accident or nonhuman cause and provided further that the removal or trimming is accomplished through the use of standard forestry practices and techniques. An ISA certified arborist, municipal forester, or state registered forester must verify the condition of dead, diseased, or damaged trees prior to their removal;

(8) The removal or transplanting of trees during the operation of a commercial nursery or tree farm;

(9) Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease or other disaster in order to prevent injury or damage to persons or property or restore order.

(1978 Code, § 33-40; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 5, 5-17-05)

51-41. CONTENTS OF APPLICATION FOR TREE REMOVAL PERMIT.

(A) *Required information, one acre or larger parcels.* An applicant for a tree removal permit if required by this article for a parcel of one acre or more shall submit the following materials to the city:

(1) A completed tree removal permit application on a form prescribed by the city which shall include the following information:

- a. The name, address and telephone number of the applicant and/or the applicant's agent;
- b. The name, address and telephone number of the owner of the property;
- c. The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;
- d. A detailed description and statement of the activity to be undertaken.

(2) A tree removal permit application fee in the amount established by City Council resolution.

(3) If the applicant is not the owner of the property, a written authorization from the owner allowing the proposed activity.

(4) Ten copies of a tree survey and a plan for proposed tree removal. Tree surveys must be prepared and sealed or signed by a qualified professional and verified or sealed or signed by a registered arborist or forester containing all of the following information:

- a. The shape and dimensions of the property and the location of any existing and proposed structure or improvement;
- b. The identification and tagging in the field of all trees with identifying numbers, using non-corrosive metal tags, and shown on the plan with the corresponding number;
- c. The location of all existing trees of six inches or greater d.b.h., identified by tag number, and a tree inventory list identifying the size and common or botanical name for each tree. The tree survey shall identify the desirable trees that are to be preserved and the undesirable trees which are to be removed. Desirable trees shall

generally include those species identified in the City of Sterling Heights Zoning Ordinance No. 278, Article 24, § 24.02. The tree survey and inventory list shall also identify all landmark trees present on the site;

d. The location and identification of all trees proposed to remain, to be transplanted or to be removed shall be designated. A cluster of trees standing three to five feet apart or closer may be designated as a "stand" of trees and the predominant species, estimated number and average size shall be indicated. Clusters of trees located within an approved open space which are to be preserved may be designated as an "open space stand" and identified in the same manner as a "stand" without individual identification and location;

e. The total number of trees on site, the total number of trees to be removed, and the total number of replacement trees credits required to be planted on the site in tabular form on the plan;

f. A tree replacement plan showing the proposed location of all replacement trees, including a list of proposed replacement tree species, sizes, and replacement credit values;

g. The location and dimension of all setbacks required by existing zoning requirements;

h. The location of tree protection fences and a statement that all retained trees will be identified by a method, such as painting or flagging. The statement shall include a description of how the retained trees are to be protected during construction, with an acknowledgment that the barriers must be in place before operations commence;

i. A statement showing how trees to remain are to be protected on a permanent basis, including the proposed use of tree wells, protective barriers, tunneling, or retaining walls, shall be included on the plan;

j. A statement indicating that the trees to be removed and tree protection measures will be inspected and approved by the City Planning Department or City Forester prior to any tree removal or construction activity occurring on site; and

k. A general grading plan prepared by a registered engineer or land surveyor showing the anticipated drainage patterns, including the location of any areas where cut and fill operations are likely to occur to enable the city to determine the impact of the proposal on the viability of the existing trees.

(B) *Required information parcels of less than one acre.* An applicant for a tree removal permit, if required by this article upon an undeveloped parcel of less than one acre, shall submit the following material to the city:

(1) All of the information required under § 51-41(A)(1), (2) and (3);

(2) Five copies of a tree survey, including all information required by § 51-41(A)(4)a, b, c and d;

(3) Five copies of a detailed grading plan prepared by a registered engineer or land surveyor showing the proposed grade elevations of the property, which elevations shall not adversely affect the viability of the existing trees.

(C) *Alternate site plant information-all sites.* Where the request for a tree removal permit relates to any site which contains no trees of six inches or greater d.b.h., the applicant shall so indicate in his or her application and submit a "no tree" affidavit. In such case, the city shall conduct an inspection of the site. If the inspection substantiates the applicant's claim, the applicant shall be relieved from the requirement of obtaining a tree removal permit.

(1978 Code, § 33-41; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 6, 5-17-05)

51-42. APPLICATION REVIEW PROCEDURES.

(A) *Procedure.* The city shall review the submitted application for a tree removal permit required by this article to determine that all required information has been provided. At the request of the applicant or the city, an administrative review meeting may be held to review the request in light of the purpose and the review standards of this article. A field inspection of the site may be conducted by the City Manager. The city shall, after review of the proposed activity, submit a report and recommendation to the City Manager as to the tree removal permit request. Where the site proposed for development requires review or approval by the Planning Commission of the subdivision layout, qualification for one-family cluster or special land use approval, the Planning Commission shall be responsible for approval or denial of the request for a tree removal permit (subject to affirmance, reversal or modification by the City Council with respect to tentative preliminary plat approval or any other approval for which City Council has final authority). In all other instances, the review of tree removal permit requests shall be the responsibility of the City Manager. All decisions shall be made in accordance with the review standards of § 51-43.

(B) *Denial.* If an application for a tree removal permit is denied, the permit applicant shall be notified in writing of the reasons for denial by the reviewing authority.

(C) *Approval; conditions; performance requirements.* If an application for a tree removal permit is granted, the reviewing authority may do any or all of the following:

(1) Attach to the granting of the permit reasonable conditions considered necessary by the reviewing authority to ensure the intent of this article is fulfilled and to

minimize damage to, encroachment in or interference with natural resources and processes within wooded areas;

(2) Fix a reasonable time to complete tree removal operations;

(3) Require a permit holder to make a cash deposit or file an irrevocable bank letter of credit acceptable to the city in an amount determined necessary by the city to ensure compliance with the terms of this article, including the planting of any required replacement trees. Once the trees designated to be removed have been removed and any required replacement trees have been planted and inspected, the city shall release 80% of the deposit or letter of credit, with the balance to be held to ensure that required maintenance as required by § 51-44 is completed. If the permit holder has provided a performance guarantee to the city under any other ordinance or regulation, and such guarantee is deemed adequate by the city to ensure compliance with this article, no additional performance guarantee shall be required under this section.

(1978 Code, § 33-42; Ord. No. 292, § 1, 4-16-91)

51-43. APPLICATION REVIEW STANDARDS.

The following standards shall govern the approval or denial of an application for a tree removal permit if required by this article.

(1) The protection and conservation of natural resources from pollution, impairment or destruction is of paramount concern. Therefore, all woodlands, trees and related natural resources shall be preserved to the greatest extent reasonably possible. The applicant shall consider and pursue all development options available under the zoning ordinance in order to preserve the woodlands and trees.

(2) The integrity of woodland areas shall be maintained to the greatest extent reasonably possible irrespective of whether such woodlands cross property lines.

(3) Where the proposed activity consists of land clearing, it shall be limited to designated street rights-of-way, drainage and utility easements, building and driveway envelopes and other areas (such as off-street parking and loading and unloading areas) necessary for site improvements considering the development options which are available to the applicant under the zoning ordinance.

(4) The reviewing authority shall evaluate the quality of the woodland area or the trees to be removed, including consideration of:

a. Tree species (including diversity of tree species);

- b. Tree size and density;
- c. Health and vigor of the trees;
- d. Soil conditions and drainage characteristics of the site;
- e. Other factors such as the value of the woodland area as a scenic asset, windblock, noise buffer or other environmental benefit (i.e., cooling effect).

(5) The removal of trees for which a tree removal permit is required shall be limited to any of the following instances:

a. When necessary for the location of a structure or site improvements and when no reasonable alternative location for the structure or improvements can be had without causing undue hardship, considering all development options which are available to the applicant under the zoning ordinance;

b. Where necessary to provide reasonable drainage upon the site and when no reasonable alternative drainage is available without the removal of the trees;

c. Where the prospective owner of the residential dwelling unit has requested the builder in writing to remove the trees in order to facilitate the homeowner making certain specified improvements which must be undertaken within 12 months of the date of the certificate of occupancy for the dwelling unit.

Notwithstanding the foregoing, no application shall be denied solely on the basis that some trees are growing on the property under construction.

(6) The burden of satisfying the criteria of this section shall be upon the applicant.

(1978 Code, § 33-43; Ord. No. 292, § 1, 4-16-91)

51-44. RELOCATION OR REPLACEMENT OF TREES; MAINTENANCE.

(A) *Replacement or relocation.* Whenever a tree removal permit has been issued authorizing removal of a regulated tree or any landmark tree, the permit holder shall replace or relocate each such tree in accordance with this section. Replacement trees may not be used to satisfy the landscaping requirements of the zoning ordinance.

(B) *Replacement required.*

(1) The permit holder shall provide one replacement credit for each regulated, non-landmark tree to be removed according to the following schedule. The minimum

size for replacement trees is eight feet in height for coniferous trees and two and a half inches in caliper for deciduous trees.

| CONIFEROUS | |
|--|--------------------------|
| <i>Replacement Tree Size (Height)</i> | Replacement Credit Value |
| 8 feet | 1 credit |
| 8.01 – 10 feet | 1.5 credits |
| Greater than 10 feet | 2 credits |
| DECIDUOUS | |
| <i>Replacement Tree Size (Caliper)</i> | Replacement Credit Value |
| 2.5 – 3 inches | 1 credit |
| 3 – 3.99 inches | 1.5 credits |
| 4 inches or greater | 2 credits |

(2) a. As an alternative to the above, the Planning Commission may approve replacement trees that are smaller in caliper size in situations where the intent is to create or recreate a densely wooded area or woodlot. Such trees may be park-grade trees, shall be at least one inch in caliper and shall be planted in tightly-grouped clusters.

b. When this alternative is used, three replacement trees must be provided for each tree replacement credit required. Such trees shall be planted not less than five feet on center and not more than 20 feet on center.

(C) *Landmark tree replacement required.* When a landmark tree is proposed to be removed, the permit holder shall provide deciduous replacement trees with a cumulative caliper equaling at least 37% of the d.b.h. of the landmark tree to be removed (rounded up to the nearest whole number).

(D) *Replacement tree diversity.* If 15 or more replacement tree credits are required, no one species of replacement tree shall account for more than 25% of all replacement trees proposed on a site.

(E) *Approval.* All replacement trees shall satisfy American Association of Nurseryman standards and shall be:

- (1) Nursery grown or if comparable, relocated from same parcel;
- (2) State Department of Agriculture inspected;

(3) Tree spade transplanted while in the dormant state, or, if not in the dormant state, having been balled and burlapped with a solid, well-laced root ball when in the dormant state;

(4) No. 1 grade with a straight, unscarred trunk and a well-developed uniform crown (park grade trees are acceptable);

(5) Guaranteed for one year;

(6) Approved through inspection by the city; and

(7) Of a species included on the "List of Acceptable Replacement Trees" on file with the City Clerk.

(F) *Location.* The location of any replacement tree shall be on the same parcel as the removed tree wherever feasible. If tree location or replacement on the same parcel is not feasible, the City Manager or his or her designee may designate another planting location for the replacement tree within the city. If tree relocation or replacement is not feasible either on the parcel or on another approved location within the city, the City Manager or his or her designee may allow the permit holder to pay into the City Tree Fund monies for tree replacement on a per tree basis representing the current market value for the tree replacement that would otherwise be required. The City Tree Fund shall be utilized for the planting, maintenance and preservation of trees and woodland areas within the city.

(G) *Maintenance.* Replacement trees shall be staked, fertilized, watered and mulched to ensure their survival in a healthy, growing condition.

(1978 Code, § 33-44; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 7, 5-17-05)

51-45. TERM OF PERMIT.

(A) Any and all tree removal permits issued by the city to a developer shall expire (unless extended) at the same time as the contemporaneous approval granted by the city for the development, if any (i.e., tentative preliminary plat, preliminary site plan, special land use, site plan approval, etc.).

(B) Any and all tree removal permits issued by the city to any person for an activity regulated under this article for which a contemporaneous approval of the development is not required under city ordinance (i.e., removal of trees by a builder in connection with construction of a residence upon a lot or parcel) shall expire one year from the date of issuance.

(C) Any activity regulated under this article which is to be commenced after expiration of a tree removal permit shall require a new application, additional fees and new review and approval.

(1978 Code, § 33-45; Ord. No. 292, § 1, 4-16-91)

51-46. PROTECTION OF TREES AND WOODLANDS DURING CONSTRUCTION; DISPLAY OF PERMIT.

(A) A person shall not conduct an activity within the critical root zone of any tree designated to remain, including but not limited to placing solvents, building material, construction equipment or soil deposits.

(B) During construction, a person shall not attach a device or wire to any remaining tree, except to cordon off protected areas as required by (C)(1) below.

(C) Before development, land clearing, filling or any property alteration for which a tree removal permit is required, the developer or builder shall erect and maintain fences around the critical root zone of any tree or grouping of trees to be preserved. Tree protection fences shall have a minimum height of four feet, and shall be constructed of wood, cyclone fence, or a similar sturdy and durable material staked with metal stakes ten feet on center which will shield and protect trees. Snow fencing is specifically prohibited from being used for a tree protection fence. Protective barriers shall remain in place until the City Manager or his or her designee authorizes their removal or issues a final certificate of occupancy, whichever occurs first. Barriers are required for all trees designated to remain, except in the following cases:

(1) Street right-of-way and utility easements may be cordoned by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape or other brightly visible materials at least two and one-half feet above the ground from stake to stake along the outside perimeters of areas to be cleared;

(2) Large property areas separate from the construction or land clearing area onto which no equipment will venture may also be cordoned off as described in subsection (1).

(D) The permit holder shall conspicuously display the tree removal permit on-site. The permit shall be displayed continuously while trees are being removed or while activities authorized under the permit are performed and for ten days following completion of those activities. The permit holder shall allow the City Manager or his or her designee to enter and inspect the premises during reasonable business hours. Failure to allow an inspection authorized under this section is a violation of this article.

(E) If a tree originally indicated and intended to be saved is removed or excessively damaged to the point that it puts the tree at risk of death during construction in violation of an approved tree protection plan, the applicant shall be required to replace the tree. Such replacement trees shall have a minimum caliper of four inches. If the removed or damaged tree is a landmark tree, the applicant shall provide replacement trees with a cumulative caliper equal to the d.b.h. of the removed or damaged landmark tree.

(1978 Code, § 33-46; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 8, 5-17-05)

51-47. OFFICIAL WOODLANDS MAP.

(A) The designated woodlands areas are hereby established as shown on the official woodlands map which is on file in the office of the City Clerk and which with all notations, references and the information shown thereon shall be as much a part of this article as if fully described in this section. If because of problems with scale or detail there is any ambiguity as to whether a particular area is a part of a woodlands, that determination shall be made by the body or official reviewing the proposed operation for that area.

(B) The Council may revise the official woodland area map at any time that new and substantial data for woodlands is available. Where the official woodlands map is amended to add an individual property or several adjacent properties as a designated woodland, notice of the proposed amendment and hearing shall be given to all owners of such property at least 15 days before the hearing.

(1978 Code, § 33-47; Ord. No. 292, § 1, 4-16-91)

51-48. ENFORCEMENT AND ADMINISTRATION; PROMULGATION OF REGULATIONS.

(A) To insure enforcement of this article and the approved plan for tree removal, various inspections will be performed at the site at the direction of the City Manager. The applicant will be responsible for all inspection fees in accordance with City Council resolution.

(B) The City Manager shall have the authority to promulgate regulations to implement the terms of this article.

(1978 Code, § 33-48; Ord. No. 292, § 1, 4-16-91)

51-49. PENALTIES; RESTITUTION.

(A) Reserved.

(B) In addition to the penalties provided in § 1-11 of this code, any person who violates any provision of this chapter shall forfeit and pay to the city a civil penalty equal to the total value of those trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula. Such sum shall accrue to the city and may be recovered in a civil action brought by the city. Such sum so collected shall be placed in the City Tree Fund. Replacement of illegally removed trees may be required as restoration in lieu of money. This replacement will be computed on an inch-for-inch ratio based on the total diameter measured at d.b.h. in inches of the illegally removed trees. If, because of destruction of the removed trees, exact inch-for-inch measurements cannot be obtained, the city may use other means to estimate the tree loss. A combination of money and tree replacement may be required.

(C) Any person authorized by the City Manager to enforce or administer this article may issue a stop work order to any person conducting any operation in violation of this article, including but not limited to failing to conspicuously display the tree removal permit upon the site. The written stop work order shall be posted upon the premises. A person shall not continue, or cause or allow to be continued, any operation in violation of such an order, except as authorized by the enforcing agency to abate a dangerous condition or remove the violation, the City Manager lifting the stop work order as authorized in paragraph (E) below or as authorized by order of a court of competent jurisdiction.

(D) If a stop work order is not obeyed, the enforcing agency 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 criminal prosecution for failure to obey the order.

(E) Any person aggrieved by a stop work order may request review by the City Manager of the stop work order within one working day of its issuance. The City Manager shall then determine whether the stop work order was properly issued due to operations being conducted in violation of the terms of this article. The City Manager may lift the stop work order if the operations are in compliance with this article.

(F) Any use or activity in violation of the terms of this article is hereby declared to be a nuisance per se and may be abated by order of any court of competent jurisdiction. The City Council, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation. All costs, fees and expenses in connection with such action shall be assessed as damages against the violation.

(G) The city may assess the cost incurred by the city in enforcing the terms of this chapter against the property upon which the violation has occurred as provided in paragraphs (G) and (H) of this section. Such costs may include, but are not limited to, administrative fees, attorney fees, consulting fees and any court costs incurred in such

enforcement. If the city decides to assess any costs incurred by the city in enforcing the terms of this chapter as a lien against the affected property, the City Manager, Code Enforcement Official or other enforcing official shall request that the City Council determine whether and the extent to which such costs will be assessed against the property. The owner of the affected property shall be given written notice as provided in § 33-5(B) of the date of the City Council meeting at which the assessment of costs will be considered by the City Council.

(H) If the City Council authorizes the assessment of the costs be levied as a lien against the property, the City Treasurer shall take the necessary action to impose the lien against the property and collect all of the costs incurred in enforcement, including but not limited to administrative costs, attorney fees, consulting fees and any court costs incurred in such enforcement. The imposition of the lien against the property shall not be the sole means of collection available to the city but shall be in addition to any other remedies available.

(1978 Code, § 33-49; Ord. No. 292, § 1, 4-16-91; Ord. No. 328, § 7, 11-5-97; Ord. No. 292-B, § 1, 1-5-99)

51-50. VARIANCES.

The standards contained in this article are not intended to be arbitrary or inhibitive to creative solutions. Site and project conditions may justify modifications of these standards when conditions arise where full compliance is impractical or under circumstances where achievement of the city's objectives can be better obtained through modified requirements. Therefore, in specific instances, the Board of Ordinance Appeals shall have the authority to hear and decide appeals from and grant variances relating to any order, requirement, decision or determination made by any administrative official or body charged with enforcing or administering the terms of this article (other than determinations which are made by the Planning Commission or City Council), where, owing to special conditions such as topography, soil, drainage or other site conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships. In such instances, the Board of Ordinance Appeals shall have the power upon appeal or request for variance in specific cases to modify the provisions of the article with such conditions and safeguards as it may reasonably determine, provided that such conditions are in harmony with the spirit of this article in preserving and enhancing environmental quality.

(1978 Code, § 33-50; Ord. No. 292, § 1, 4-16-91)

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