

## Chapter 20 VEGETATION\*

**\*Cross references:** Beautification commission, Ch. 2, Art. II; garbage and refuse, Ch. 10; damaging of vegetation in parks and playgrounds prohibited, § 13-60; streets, sidewalks and other public places, Ch. 16.

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## ARTICLE I. IN GENERAL

### **Sec. 20-1. Interference with department of public works prohibited.**

No person shall hinder, prevent or interfere with the agents or employees of the department of public works while engaged in carrying out the provisions of this chapter.

(Ord. No. 176, § 18, 6-27-38)

**Sec. 20-2. Responsibility of property owner for growth overhanging public places.**

Every owner of any tree, shrub or plant growing on private property and overhanging the streets or highways within the city shall trim the branches so that they shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of 12 feet above the surface of the street or sidewalk, and said owner shall remove all dead, diseased or dangerous trees growing on private property and overhanging the street and highways within the city and shall remove broken or decayed limbs from such trees which may be considered a menace to the safety of the public.

(Ord. No. 176, § 7, 6-27-38)

**Sec. 20-3. Visibility on corner lots--Required.**

All trees, shrubs or plants located on any corner lot within the limits of the city that obstruct the view of a driver of a vehicle approaching a street intersection shall not be permitted. There shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points six feet from the intersection of the street lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

(Ord. No. 176, § 8, 6-27-38)

**Cross references:** Traffic and motor vehicle code, Ch. 18.

**Sec. 20-4. Same--Enforcement.**

It shall be the duty of the department of public works in all cases of any violation of section 20-3 to order the owner of such trees, shrubs or plants to cut the same within ten days.

(Ord. No. 176, § 9, 6-27-38)

**Sec. 20-5. Same--Failure to cut.**

In case the owner of any shrub or plant shall fail to cut the same to the height specified within ten days after being notified so to do per section 20-4, the department of public works shall report such failure to the city council, which may then order said shrub, or plant to be cut, and the cost of such work shall be levied against said owner of such tree, shrub or plant, and shall be collected by special assessment.

(Ord. No. 176, § 10, 6-27-38)

**Sec. 20-6. Removal of certain trees by contractor.**

(a) Any person, partnership or corporation (hereafter referred to as "contractor") contracted to remove any tree of eight inches diameter or more implanted on private property within the city shall be required to obtain a permit (for each site location) from the city parks and recreation department before commencing work. Cost of said permit shall be determined by the city council.

(b) Any contractor removing any tree (regardless of size) shall be responsible for the total transport of all tree debris including, branches, trunk stump and roots if removed, to a point outside the limits of the city.

(c) No contractor shall place any tree debris upon public highway, street, park, boulevard or alley within the city. Failure to abide by this provision shall result in removal of said tree debris from city property by the city, with all costs in connection therewith

becoming a lien upon the property on which said tree was located. Such costs shall be assessed and collected in the same manner provided in the City Charter wherein any cost is incurred in connection with a single lot or parcel of land.

(d) The permit described in subsection 20-6(a) shall be filled out by the contractor substantially in the following form:

**CONTRACTOR'S TREE CUTTING PERMIT**

NO. \_\_\_\_\_

CONTRACTOR'S NAME \_\_\_\_\_

BUSINESS ADDRESS \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_ NUMBER OF TREES \_\_\_\_\_

SITE LOCATION ADDRESS \_\_\_\_\_

CONTRACTOR/APPLICANT hereby agrees that he makes application for this permit based upon the information given in this application which he affirms to be true and correct, and that he will comply in all respects with the requirements of Ordinance No. 176 and the Ordinances of the City of Ferndale insofar as they are applicable.

FEE \_\_\_\_\_

DATE \_\_\_\_\_

(Ord. No. 700, § 1, 5-12-80)

**Cross references:** Tree protection, § 20-70 et seq.  
Secs. 20-7--20-15. Reserved.

**ARTICLE II. TREES, SHRUBS AND PLANTS IN PUBLIC PLACES\***

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\***Charter references:** Authority to provide for and regulate the planting of shade and ornamental trees in the streets of the city and to provide for the care and maintenance of such trees, Ch. XIII, § 11.

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**Sec. 20-16. Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

*Public places* means any park, park lot, parkway or other property under the control or jurisdiction of the city.

*Public highway* means all land lying between property lines on either side of all public streets, boulevards and alleys in the city.

*Trees* shall not include shrubs which do not grow higher than 15 feet.

(Ord. No. 176, § 2, 6-27-38)

**Sec. 20-17. Controlled by department of public works; report to city council.**

(a) The department of public works shall have power and control over all trees, shrubs and plants planted or to be planted in the public highways or places of the city and the power to plant, prune, spray and otherwise maintain such trees, shrubs, and plants within the confines of the city.

(b) Whenever deemed necessary by the department of public works to lay out and plant trees and shrubs upon any public highways within the city, or to remove undesirable species of trees, it shall be the duty of the said department to report such fact to the city council, which body may, by resolution, declare that a necessity exists for

the removal of undesirable species of trees, specifying in such resolution the particular location, upon which it is proposed to lay out or plant, or remove, such trees and shrubs, and designating the estimated cost thereof.

(Ord. No. 176, §§ 1, 14, 6-27-38)

**Sec. 20-18. Petition or order for planting.**

Tree and shrubbery planting may be done through the city upon petition to the city council of 60 percent, or more, of the abutting property owners of the public highways, upon which it is proposed to make the improvement; or by order of the city council upon the recommendation of the department of public works.

(Ord. No. 176, § 13, 6-27-38)

**Sec. 20-19. Costs borne by special assessments for planting or removal.**

All proceedings in connection with laying out and planting of trees and shrubs upon any public highways or public places within the city or removing undesirable species of trees when the cost thereof is to be borne, in whole or in part, by special assessments, shall be in conformity with the provisions contained in chapter 12 of the Charter of the city and all sums assessed for the cost of any such improvements shall be levied and collected as provided in said chapter twelve of the Charter.

(Ord. No. 176, § 15, 6-27-38)

**Sec. 20-20. Permit required for planting.**

It shall be unlawful for any person to plant any trees, shrubs or any other plants in any public highway within the city, either for himself or for anyone else, until he has secured a written permit therefor from the department of public works, which said permit shall be complied with in strict accordance with the rules and regulations therein prescribed. The application for such permit shall designate the locations and species of trees, shrubs or plants to be planted and the method proposed to be followed; the department of public works shall have the authority to refuse the granting of such permit, when such planting is likely to create a public danger or a nuisance to the public.

(Ord. No. 176, § 16, 6-27-38)

**Sec. 20-21. Removal; cost of replacing.**

(a) It shall be the duty of the department of public works to remove or cause to be removed all trees, shrubs or plants planted upon the public highways and public places within the city, when, in its judgment, such removal shall be beneficial to the peace, health and safety of the public and public improvements, or where said trees, shrubs or plants, are detrimental to the growth of adjacent trees, but in such cases, where, in the judgment of the department of public works, there exists the necessity of replacing these trees, shrubs or plants, the cost thereof shall be at the expense of the abutting property owners, either by direct payment of said amount to the city treasurer or by assessment as heretofore provided.

(b) Any person desiring to remove a live tree for the construction of walks, drives, buildings or other structures for his own gain, shall deposit with the department of public works a sum equal to the value of the tree as determined by the said department.

(Ord. No. 176, §§ 16, 17, 6-27-38)

**Sec. 20-22. Restrictions on planting.**

(a) It shall be unlawful to plant trees, shrubs or bushes between the curb and sidewalk on any street, alley or place in the city where the clear space between the curb and sidewalk is less than three feet.

(b) It shall be unlawful to plant in the public highways or places in the city: Poplars, Willows, Chinese Elms, Catalpas of all species, Ailanthus (Tree of Heaven), Soft Maples including Silver Maples, Cut Leaf Maples and Ash Leaf Maples (Box Elders), and shrub type trees; provided, however, that planting of such shrub type trees and the within named species of trees may be permitted by the department of public works in certain public places designated by it, where such planting will not be likely to result in the creation of a nuisance.

(Ord. No. 282, 1-31-49)

**Sec. 20-23. Interference prohibited; exceptions.**

No person shall prune, cut, molest, break, deface, destroy, spray, repair or do surgery work upon any tree or part thereof or in any manner interfere with, disturb or injure any trees, shrubs or plants upon the public highways or places of the city; nor shall any chemical be used for the control of insects or other diseases or for any other reason; nor shall any person permit any chemical, either solids or fluids, to seep, drain or be emptied on or about any tree, shrub or plant that is now or may hereafter be growing upon a public highway or place within the city without first obtaining a permit from the department of public works. Provided further, that nothing in this section shall be construed so as to apply to the removal, under the direction of the department of public works, by the department of public works, or any other department or subdivision thereof, of any tree, shrub or plant or part thereof when such removal shall be necessary for the construction of any sidewalk, sewer, main, conduit or public improvement.

(Ord. No. 176, § 3, 6-27-38)

**State law references:** Destroying or injuring trees, MSA §§ 9.336, 9.355, 9.361, 13.1064(1); right of public utilities to trim or remove trees subject to regulation by municipalities, MSA § 26.430(190).

**Sec. 20-24. Fastening of any article prohibited.**

No person shall be permitted to hitch any animal to a tree or shrub, nor fasten to, for the purpose of anchorage, any wire, rope, chain or cables, nor shall any person nail, tie or in any other manner fasten any cards, signs, posters, boards or any other article to any tree, shrub or plant that is now, or may hereafter, be growing upon any public highway or public place within the city.

(Ord. No. 176, § 4, 6-27-38)

**State law references:** Similar provisions, MSA § 9.361.

**Sec. 20-25. Permit required for excavations within ten feet; deposit.**

No person shall excavate any ditches, tunnels or trenches within a radius of ten feet from any tree, shrub or plant that is now, or may hereafter be, growing upon any public highway or place within the city without first obtaining a written permit from the department of public works. All persons desiring to excavate any ditches, tunnels or trenches shall deposit a sum sufficient to cover the cost of inspection and damage that may result therefrom.

(Ord. No. 176, § 5, 6-27-38)

**Sec. 20-26. Protection required when near any excavation or construction.**

All trees, shrubs or plants within the limits of any street, boulevard, highway or public place near any excavation or construction of any building or structure, shall be guarded with a good, substantial frame box not less than four feet square and six feet high and all building material or other debris shall be kept at least four feet from any tree, shrub or plant.

(Ord. No. 176, § 6, 6-27-38)

Cross references: Tree protection, § 20-70 et seq.

### **Sec. 20-27. Notice of plans to move buildings required; deposit; refusal of permit or changing of route by department of public works.**

Every person, whether licensed or otherwise, moving any building or other structure of either wood, metal, stone or concrete measuring over eight feet six inches wide; and 12 feet high, measuring from the surface of the roadway, along any street or highway or across any public place within the city shall file a written notice with the department of public works of the date of their intentions so to do, stating the time, the place from and to which the building or structure will be moved, the method proposed to be taken in such moving, and shall not in any manner damage any trees or shrubs planted on any street or highway and shall deposit a sum sufficient to cover the cost of inspection and damage that may result therefrom. The department of public works shall have the authority to refuse the issuance of a permit or change the route of such moving if, in its opinion, such moving will cause damage to any property.

(Ord. No. 176, § 11, 6-27-38)

Secs. 20-28--20-37. Reserved.

## **ARTICLE III. NOXIOUS VEGETATION\***

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\*Charter references: Specific authority to exercise jurisdiction over all diseased or noxious trees, shrubs and plants, Ch. II, § 2(19).

State law references: Unlawful to deposit noxious weeds on public ways, MSA § 28.181.

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### **Sec. 20-38. Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

*Owner* means the person having legal possession of the property.

*Parcel of land* means any continuous piece or parcel of land owned by one person and shall include such portions of any street or alley abutting such land dedicated for public use that would be attached to the said piece or parcel of land, upon the vacation of the public rights to the street or alley.

*Poisonous or harmful vegetation* means any and all vegetation that in any way becomes a hazard to or detrimental to the health of any person.

*Weeds* means all weeds, grass, brush, wildings, second growth, rank vegetation or other vegetation that is not growing in its proper place, having a greater height than seven inches or a spread of more than seven inches.

(Ord. No. 501, § 1, 2-28-66; Ord. No. 728, § 1, 2-22-82)

### **Sec. 20-39. Responsibility.**

(a) Each person occupying a piece of property and the owners of vacant properties shall maintain all yard spaces, including such portions of any street or alley abutting such lands dedicated for public use that would be attached to the said parcel of land upon the vacation of the public rights to the street or alley, that is not otherwise paved or improved, in a condition that will not detract from the appearance of the neighborhood.

(b) For properties occupied by a single party, the occupant shall be responsible and subject to the penalties provided for violation of this article.

(c) For properties that are occupied for multiple use, the owner shall designate a person who resides on the property to act as his agent and who shall be responsible for the maintenance of the property as required by this article. Failure to appoint an agent by the owner shall make the owner subject to the penalties provided for violation of this article.

(d) Provided that where the property is occupied by a tenant, this shall not relieve the owner of responsibility and upon failure to maintain the property as required by this article, the city may do such work as is required and assess its cost to the property as provided in this article.

(e) For unoccupied properties the owner shall be responsible for maintaining the property as required by this article.

(Ord. No. 501, § 2, 2-28-66)

#### **Sec. 20-40. Growth--Unlawful to permit.**

It shall be unlawful for any person having control of any occupied or unoccupied lot or parcel of land or any part thereof, in the city, to permit or maintain on any such lot or parcel of land any growth of weeds or poisonous or harmful vegetation.

(Ord. No. 501, § 3, 2-28-66)

#### **Sec. 20-41. Same--Duty to remove.**

Each person having control of any occupied or unoccupied land shall remove or destroy, or cause to be removed or destroyed, any and all growth of weeds or poisonous or harmful vegetation and shall maintain such parcel of land free from any growth of such weeds or poisonous or harmful vegetation, and each person having control of any parcel of land shall cut and remove or cause to be cut or removed or destroyed by other lawful means such weeds, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this article; provided that, cutting, removing or destroying such weeds or poisonous or harmful vegetation shall occur as often as necessary between May 1 and October 31 in order to keep said vegetation from attaining a height greater than seven inches or attaining a spread of over seven square inches, which shall be deemed to be in compliance with this article.

(Ord. No. 501, § 4, 2-28-66; Ord. No. 728, § 2, 2-22-82; Ord. No. 793, § 1, 4-13-87)

#### **Sec. 20-42. Annual notice to comply with article provisions.**

(a) The city manager shall give notice to the persons responsible for lands within the city once each year prior to May 1 by publishing at least two times in a newspaper having general circulation within the city and by such other means as the city council shall direct; said notice shall declare the provisions of this article and the penalties for the failure of compliance or the violation thereof.

(b) The notice shall contain the provision that if the requirements of this article are not complied with within ten days after the date of the notice and maintained free from weeds, or poisonous or harmful vegetation from May 1 through October 31 of each year, without further notice, the city manager may cause such weeds or poisonous or harmful

vegetation to be cut or destroyed, as required by the provisions of this article with the actual cost for such destruction and removal plus an additional fee to cover inspection and other costs in connection therewith to be charged against the property.

(Ord. No. 501, § 5, 2-28-66; Ord. No. 718, § 1, 7-13-81; Ord. No. 793, § 1, 4-13-87)

**Sec. 20-43. Failure of owner to destroy--Destruction by city; cost assessed against property.**

(a) If a parcel of land has not been cleared of the weeds or poisonous or harmful vegetation, as provided in this article, within ten days after the date of the notice in section 20-42 and maintained from May 1 through October 31 in a condition free from such weeds or poisonous or harmful vegetation, without further notice, the city manager may cause such weeds or poisonous or harmful vegetation to be cut or completely destroyed: provided that, in the case of poison ivy or other poisonous plants, he will cause such plants to be completely destroyed.

(b) The actual cost of such cutting, removal or destruction plus fee for inspection as prescribed by resolution of the city council and any other cost in connection therewith, shall be certified by the city manager to the city council and upon their approval shall become and be a lien upon the property on which such weeds or poisonous or harmful vegetation were located, and such charges shall be assessed and collected in the same manner provided in the Charter of the city, wherein any cost is incurred in connection with a single lot or parcel of land.

(Ord. No. 501, § 6, 2-28-66; Ord. No. 793, § 1, 4-13-87)

**Sec. 20-44. Same--Right of entry.**

Because of the failure of the person responsible to carry out the provisions of this article the city or its employees or agents shall have the right to enter upon any private property not securely fenced or enclosed, for the purpose of cutting, removing or destroying any and all weeds, poisonous or harmful vegetation, and the city and its employees or agents shall not be liable for any damage to any plants or vegetation obscured by the growth of weeds, poisonous or harmful vegetation.

(Ord. No. 501, § 7, 2-28-66)

Secs. 20-45--20-54. Reserved.

**ARTICLE IV. DUTCH ELM DISEASE CONTROL\***

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\*Charter references: Specific authority to exercise jurisdiction over diseased trees, Ch. II, § 2(19).

State law references: Prevention of Dutch Elm disease, MSA § 12.264.

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**Sec. 20-55. Enforcement of article by city forester; display of identification card; interference prohibited.**

The city forester is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent or interfere with the city forester entering on private property for purposes of carrying out his duties under this article. The city forester shall carry his official



identification card while on duty and present same when necessary to identify himself in the performance of his duties.

(Ord. No. 366, § 3, 8-23-54)

**Sec. 20-56. Trees declared as public nuisances.**

(a) Trees of all species and varieties of elm, zelkova and planera affected with the fungus *Ceratostomella ulmi*, as determined by field diagnosis or laboratory analysis, are hereby declared to be a public nuisance.

(b) Trees or parts thereof of elm, zelkova or planera in a dead or dying condition that may serve as breeding places for the European Elm Bark Beetle, *scolytus multistriatus*, are hereby declared to be public nuisances, and it shall be unlawful for the person owning property whereon the same is situated to possess or keep the same.

(Ord. No. 366, §§ 1, 2, 8-23-54)

Cross references: Public nuisances generally, Ch. 12, Art. IV.

**Sec. 20-57. Trees damaged by contractors; penalty for failure to notify department of public works.**

Trees or parts thereof of elm, zelkova or planera, damaged beyond recovery or killed by contractors operating within the city are hereby declared to be a public nuisance and shall be removed and disposed of within ten days. Contractors shall immediately notify the director of public works of damage to trees. Failure to do so will result in a fine of \$25.00.

(Ord. No. 366, § 2, 8-23-54)

**Sec. 20-58. Removal of trees on private lands--Notice; service.**

(a) If trees on private property are found to be public nuisances per section 20-56, the city forester shall give to the owner of the premises where such trees are situated written notice of the existence of such disease, and require the removal and burning of such trees within a period of ten days following such notice, such removal and burning to be under the direction and supervision of the city forester. Such notice shall also notify the owner of said premises that unless such tree is removed and burned in compliance with the terms thereof within such ten day period, the city will proceed with the removal and burning of such tree, and assess the cost thereof against the property in accordance with the provisions of the Charter of the city.

(b) Service of notice under this section shall be by personal service where the owner of said premises is a resident of the city; where the owner is a non-resident of the city, said notice shall be served by registered mail, addressed to said owner at his last known address as shown on the records in the office of the city assessor.

(Ord. No. 366, §§ 4, 5, 8-23-54)

**Sec. 20-59. Same--Duty of owner.**

It shall become the duty of the owner of any premises who receives a notice per section 20-58 to cause such tree to be removed and burned, under the direction and supervision of the city forester, or his authorized deputy or employee.

(Ord. No. 366, § 6, 8-23-54)

**Sec. 20-60. Same--Removal by city; costs assessed against property.**

In lieu of removing trees per section 20-59, the person charged with such removal and burning may request that the same be done by the city forester. If the city shall remove and burn any tree by request of the owner or not, all expenses incurred in

connection therewith if not paid within 90 days upon rendering of a bill, shall be reported to the city council, for assessment against the lands whereon said tree was situated, in accordance with the provisions of the Charter of the city.  
(Ord. No. 366, § 6, 8-23-54)

**Sec. 20-61. Removal of trees on public land; cost.**

Trees on public lands within the city shall be removed at the expense of the city, in accordance with the provisions of section 20-19.  
(Ord. No. 366, § 7, 8-23-54)  
Secs. 20-62--20-69. Reserved.

**ARTICLE V. TREE PROTECTION\***

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\*Cross references: Removal of certain trees by contractor, § 20-6; protection of trees near excavation or construction, § 20-26.

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**Sec. 20-70. Preservation and replacement of trees.**

(a) *Intent and purpose.* The intent and purpose of this section is to protect, maintain, preserve and replace the stock of trees within the city, for the following reasons:

- (1) Trees are proven producers of oxygen, a necessary element for the survival of mankind;
- (2) Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air;
- (3) Trees play an important role in the hydrologic cycle, transpiring considerable amounts of water each day, thereby precipitating dust and other particulate airborne pollutants from the air;
- (4) Trees play an important role in neutralizing wastewater, which passes through the ground from the surface to groundwater tables and lower aquifers;
- (5) Trees, through their root systems, stabilize the soil and play an important and effective part in soil conservation, erosion control and flood control;
- (6) Trees are an invaluable physical and psychological addition to the city, making life more comfortable by providing shade, by cooling both air and land, by reducing noise levels and glare, and by breaking the visual monotony of development on the land;
- (7) Trees provide wildlife habitat and play other important ecological roles; and
- (8) The protection of trees within the city is not only desirable, but essential to the present and future health, safety, and welfare of all the citizens of this city.

(b) *Applicability.* This section shall apply to all land, the development or modification of which requires site plan approval in the manner authorized by Section 4d of 1921 P.A. 207, as amended by 1978 P.A. 638 (MCL 125.584d), and Ordinance No. 696, as these laws and regulations may hereinafter be amended or revised.

(c) *Removing, damaging or destroying trees.* It shall be a violation of this section for any person to remove, damage, or destroy a tree; or to cause a tree to be removed, damaged or destroyed; unless such removal, damage or destruction is in compliance with this section or is authorized by a site plan approved pursuant to Ordinance No. 696 or its successor ordinance.

(d) *Tree defined.* "Tree" or "protected tree" means a living, woody, self-supporting plant six feet or more in height, having a main stem, or cluster of main stems, four and one-

half inches or more in diameter at breast height (D.B.H.), of the trees described below (diameter at breast height being the diameter measured at 54 inches above the adjoining ground). Some tree species are more beneficial than others as necessary contributors to the city's environment; therefore, it is not necessary to protect each and every tree in order to attain the public benefit of a tree protection and replacement ordinance. [Protected tree species shall be as follows:]

Family: Aceraceae--Maple

Genus: Acer--Maple

Species: campestre--Hedge Maple

nigrum--Black Maple

pennsylvanicum--Striped Maple

platanoides--Norway Maple (all varieties)

platanoides columnar--Columnar Norway Maple

pseudoplatanus--Sycamore Maple (all varieties)

rubrum--Red Maple (all varieties)

saccharinum--Silver Maple

saccharum--Sugar Maple

spicatum--Mountain Maple

Family: Betulaceae--Birch

Genus: Alnus--Alder

Species: glutinosa--European Alder

Genus: Betula--Birch

Species: alleghaniensis--Yellow Birch

lenta--Sweet Birch

nigra--River Birch

papyrifera--Paper Birch

pendula--European White Birch

populifolia--Gray Birch

Genus: Carpinus--Hornbeam

Species: betula fastigiata--Upright European Hornbeam caroliniana--American Hornbeam

Genus: Ostrya--Hophornbeam

Species: virginiana--Eastern Hophornbeam

Family: Cornaceae--Dogwood

Genus: Cornus--Dogwood

Species: florida--Flowering Dogwood (all varieties)

Genus: Nyssa--Tupelo

Species: sylvatica--Black Tupelo

Family: Cupressaceae--Cypress

Genus: Juniperus--Juniper

Species: virginiana--Eastern Redcedar "Red Juniper"

Genus: Thuja

Species: occidentalis--Northern White Cedar

Family: Fagaceae--Beech (Oak)

Genus: Fagus--Beech

Species: grandifolia--American Beech

sylvatica--European Beech

Genus: Quercus--Oak

Species: alba--White Oak

bicolor--Swamp White Oak

coccinea--Scarlet Oak

ellipsoidalis--Northern Pin Oak

imbricaria--Shingle Oak

macrocarpa--Bur Oak

muehlenbergii--Chinkapin Oak

palustris--Pin Oak

prinus--Chestnut Oak

robur--English Oak

rubra--Northern Red Oak

shumardii--Shumard Oak

velutina--Black Oak

Family: Ginkgoaceae--Ginkgo

Genus: Ginkgo--Ginkgo

Species: biloba (male)--Ginkgo (male)

Family: Hamamelidaceae--Witch Hazel

Genus: Hamamelis--Witch Hazel

Species: virginiana--Witch Hazel

Genus: Liquidambar--Sweetgum

Species: styraciflua--American Sweetgum

Family: Hippocastanaceae--Buckeye (horsechestnut)

Genus: Aesculus--Horsechestnut

Species: cornea brioti--Ruby Red Horsechestnut

glabra--Ohio Buckeye

hippocastanum--Horsechestnut

Family: Juglandaceae--Walnut

Genus: Carya--Hickory

Species: cordiformis--Bitternut Hickory

glabra--Pignut Hickory

laciniosa--Shellbark Hickory

ovata--Shagbark Hickory

tomentosa--Mockernut Hickory

Genus: Juglans--Walnut

Species: cinerea--White Walnut

nigra--Black Walnut

Family: Leguminosae--Legume

Genus: Cercis

Species: canadensis--Eastern Redbud

Genus: Gleditsia

Species: triacanthos--Honey Locust

triacanthos inermis--Thornless Honey Locust

Genus: Robinia

Species: pseudoacacia--Black Locust

Genus: Sophora

Species: japonica--Japanese Pagodatree "Chinese Scholartree"

Family: Lauraceae--Laurel  
Genus: Sassafras  
Species: albidum--Sassafras  
Family: Magnoliaceae--Magnolia  
Genus: Liriodendron  
Species: tulipifera--Yellow Poplar "Tuliptree"  
Genus: Magnolia  
Species: acuminata--Cucumbertree

soulangiana--Saucer Magnolia  
Family: Oleaceae--Olive  
Genus: Fraxinus--Ash  
Species: americana--White Ash

nigra--Black Ash  
pennsylvanica--Green Ash  
quadrangulata--Blue Ash  
Family: Pinaceae--Pine  
Genus: Abies--Fir  
Species: balsamea--Balsam Fir

concolor--White Fir  
Genus: Larix--Larch  
Species: decidua--European Larch

laricina--Tamarach "Eastern Larch"  
Genus: Picea--Spruce  
Species: abies--Norway Spruce

glauca--White Spruce  
mariana--Black Spruce  
pungens var. glauca--Colorado Blue Spruce  
Genus: Pinus--Pine  
Species: banksiana--Jack Pine

nigra--Austrian Pine  
ponderosa--Ponderosa Pine  
resinosa--Red Pine  
strobilus--Eastern White Pine  
sylvestris--Scotch Pine  
Genus: Pseudotsuga  
Species: menziesii--Douglas Fir

taxifolia--Douglas Fir  
Genus: Tsuga--Hemlock  
Species: canadensis Eastern Hemlock  
Family: Platanaceae--Sycamore  
Genus: Platanus--Planetree  
Species: acerifolia--London Planetree

occidentalis--Sycamore "American Planetree"

Family: Rosaceae--Rose  
Genus: Amelanchier--Serviceberry  
Species: arborea--Downy Serviceberry

sanguinea--Roundleaf Serviceberry  
Genus: Crataegus--Hawthorn  
Species: brainerdii--Brainerd Hawthorn

calpodendron--Pear Hawthorn  
chrysoarpa--Fireberry Hawthorn  
coccinea--Scarlet Hawthorne  
crus-galli--Cockspur Hawthorne  
dilatata--Broadleaf Hawthorne  
flabellata--Fanleaf Hawthorne  
intricata--Biltmore Hawthorne  
mollis--Downy Hawthorne  
phaenopyrum--Washington Hawthorne (all varieties)  
Genus: Malus--Apple  
Species: coronaria--Sweet Crabapple "Flowering Crabapple"  
Genus: Prunus--Plum/Cherry (ornamental and cultivated forms)  
Species: americana--American Plum

avium--Sweet Cherry  
cerasus--Sour Cherry  
mahaleb--Mahaleb Cherry  
serotina--Black Cherry  
Genus: Pyrus--Pear  
Species: calleryana--Bradford Pear

communis--Pear  
Genus: Sorbus--Mountain Ash  
Species: americana--American Mountain Ash

aucuparia--European Mountain Ash  
decora--Showy Mountain Ash  
Family: Salicaceae--Willow  
Genus: Populus  
Species: alba--White Poplar

deltoides--Eastern Cottonwood  
grandidentata--Bigtooth Aspen  
Genus: Salix--Willow  
Species: alba--White Willow

babylonica--Weeping Willow  
fragilis--Crack Willow  
nigra--Black Willow  
Family: Tiliaceae--Basswood/Linden  
Genus: Tilia  
Species: americana--American Basswood

europacea--European Linden  
Family: Ulmaceae--Elm  
Genus: Celtis  
Species: occidentalis--Hackberry  
Genus: Ulmus--Elm  
Species: americana--American Elm (all varieties)

carpinifolia christine buisman--Christine Buisman Elm  
procera--English Elm  
rubra--Slippery Elm  
thomasi--Rock Elm  
Genus: Zelkova  
Species: serrata--Japanese Zelkova  
Family:  
Genus: Koelreuteria  
Species: paniculata--Goldenrain Tree (all varieties)

(e) *Site plan requirements.* Each site plan submitted to the city on and after the effective date of this section shall show the location, common name, and D.B.H. of all trees protected by this section that are then growing upon the land to which the site plan applies. The forestry division of the department of public services shall review each such site plan and submit recommendations to the plan commission addressing the retention, relocation or substitution of protected trees, as well as other suggestions and comments. The site plan approved by the plan commission (or other body or individual having site plan approval authority) shall show the location, common name and D.B.H. of all protected trees retained, relocated, substituted or otherwise required.

(f) *Procedure and criteria for removing, relocating, or substituting a protected tree:*

(1) Before any protected tree is removed, relocated, or substituted for any existing tree on land requiring site plan approval for development, the owner of the land involved shall make application to the plan commission. The application shall include a tree location survey as defined in this section or it shall include a site plan for a proposed development in the form and manner required by this ordinance and Ordinance No. 696, or successor ordinances.

(2) A "tree location survey" means a one inch (or more) equals 200 feet scale aerial or drawing to scale, plotted by accurate techniques, that provides the location of all trees protected under the provisions of this section and the common name of all such trees, together with their D.B.H.

(3) It shall be unlawful for any person to remove any protected tree, relocate any protected tree, or substitute any tree in place of a protected tree, upon land requiring site plan approval for development, unless the plan commission, after receiving the recommendation of the forestry division of the department of public services, has first authorized such action by approval of a tree location survey or by approval of a site plan. The plan commission shall not approve the removal of any tree unless it determines that one or more of the following conditions exist:

- a. The tree poses a safety hazard to pedestrian or vehicular traffic or unmanageably threatens to cause disruption to public utility services.
- b. The tree poses a safety hazard to buildings or structures.
- c. The tree completely prevents access to a lot or parcel, without any reasonable alternative means of access.
- d. The tree unreasonably prevents development of a lot or parcel, or the physical use thereof.

e. The tree is diseased or has been weakened by age, storm, fire or other injury that was not inflicted or caused by or on behalf of the landowner and that the resulting condition of the tree poses a real danger to persons or property. Before approving the removal of any tree the plan commission shall also determine that all reasonable alternatives to removal of the tree must first have been considered and rejected; including by way of example and not limitation: design of the proposed development so as to retain the tree; abatement of the disease; and strengthening of the tree by mechanical means.

*(g) Tree protection during development of the land:*

(1) Prior to and during the land-clearing stage of development, the owner of the land, his agent, or the contractor, shall clearly mark with red flagging all protected trees located on the land, and shall erect barriers that as a minimum are made of one-inch by one-inch [boards], or similar sturdy stock, to shield protected trees. The barriers shall be no closer than six feet from the trunk or one-half of the drip line, whichever is greater, of all such protected trees or group(s) of protected trees. The owner, developer or agent shall not cause or permit the movement of equipment or the storage of equipment, material, debris or fill to be placed within the required protective barrier. Wherever possible the owner of the land, his agent, or the contractor, shall take precautions in favor of protected trees located on adjoining property that are within six feet, or which have a drip line within six feet, of the property line.

(2) During the construction stage of development, the owner, developer or agent shall not cause or permit the cleaning of equipment or material or the storage or disposal of waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other material harmful to the life of a tree, within the drip line of any protected tree or group(s) of protected trees.

(3) No damaging attachment, wires (other than supportive wires for a tree), signs or permits may be fastened to any tree protected by this section.

*(h) Conditions for removal or replacement:*

(1) As a condition to authorizing the removal of a protected tree, the plan commission may require that the protected tree be relocated or replaced. If replaced, the replacement tree shall have at least equal shade potential and other characteristics comparable to the tree removed; be a minimum of six feet in height at the time of planting; have the potential of at least a 15-foot crown; be a species protected by this section, and be approved by the plan commission after recommendation of the forestry division of the department of public services.

(2) In connection with the removal of any protected tree or trees, a minimum number of replacement trees shall be required, according to Table I, below. Any tree left in good growing condition on the site shall, however, be counted toward fulfilling these minimum requirements. Selection of replacement trees, their number and species, shall be determined by analysis of tree canopy cover, soil conditions, and other species and environmental characteristics.

**TABLE I. TREE PLANTING AND REPLACEMENT REQUIREMENTS**

TABLE INSET:

<i>Lot Size (Square Feet)</i>	<i>Minimum Replacements</i>
<i>Less than 6,000</i>	<i>2</i>
<i>6,001 to 10,000</i>	<i>4</i>



<i>10,001 to 15,000</i>	<i>6</i>
<i>More than 15,000</i>	<i>8 for each 15,000 square feet</i>

(3) Trees required to be planted in accordance with this section shall be in place and established prior to the issuance of a final certificate of occupancy, and shall be located no closer than six feet to any property line, underground utility line, or public easement.

(4) All trees depicted on any site plan approved in accordance with the terms of this section that shall die or perish for any reason shall be replaced by the landowner within four months with healthy trees permitted by this section and approved by the plan commission.

(i) *Emergency tree removal.* When in the interest of public safety, health and general welfare, it becomes necessary to remove trees damaged or destroyed by high winds, storms, tornados, floods, freezes, snows, fires, or manmade and natural disasters not inflicted or condoned by the landowner or his or her agent, the plan commission may excuse noncompliance with this section, provided that the landowner so notifies the plan commission of such removal and the reason therefor, within ten days of the disaster.

(j) *Penalty.* Any person who shall violate section 20-70 of this Code shall be guilty of a minor offense, as defined in Section 1(k) of 1927 P.A. 175, as amended (MCL 761.1, et seq.), and shall be punished by a fine not less than \$100.00, and not exceeding \$500.00, or by imprisonment for a period not exceeding 90 days, or both fine and imprisonment in the discretion of the court.

(Ord. No. 808, §§ 1, 3, 9-12-88)

**Editor's note:** Subsections (a)--(i) of § 20-70 derived from § 1 of Ord. No. 808, adopted Nov. 12, 1988. Inclusion of § 3 of the ordinance as subsection 20-70(j) was at the discretion of the editor.

ORDINANCE NO. 176

An Ordinance Pertaining to Trees on Highways in the City of Ferndale

The City of Ferndale Ordains:

Sec. 1. The Department of Public Works shall have power and control over all trees, shrubs, and plants planted or to be planted in the public highways or places of the City of Ferndale and the power to plant, prune, spray and otherwise maintain such trees, shrubs, and plants within the confines of the City of Ferndale.

Sec. 2 The word "trees" as used in this ordinance shall not be construed to include shrubs which do not grow higher than fifteen (15) feet and the words "public highway" shall be all land lying between property lines on either side of all public streets, boulevards, and alleys, and "places" shall be deemed to mean any park, park lot, park way or other property under the control or jurisdiction of the City of Ferndale.

Sec. 3. No person, firm, or corporation, shall prune, cut, molest, break, deface, destroy, spray, repair, or do surgery work upon any tree or part thereof or in any manner interfere with, disturb, or injure any trees, shrubs, or plants upon the public highways or places of the City of Ferndale; nor shall any chemical be used for the control of insects or other diseases or for any other reason; nor shall any person, firm, or corporation permit any chemical, either solids or fluids, to seep, drain, or be emptied on or about any tree, shrub or plant that is now or may hereafter be growing upon a public highway or place within the City of Ferndale, without first obtaining a permit from the Department of Public Works, Provided further, that nothing in this section shall be construed as to apply to the removal, under the direction of the Department of Public Works, by the Department of Public Works, or any other department or subdivision thereof, of any tree, shrub, or plant or part thereof when such removal shall be necessary for the construction of any sidewalk, sewer, main, conduit, or public improvement.

Sec. 4. No person, firm, or corporation shall be permitted to hitch any animal to a tree or shrub, nor fasten to, for the purpose of anchorage, any wire, rope, chain, or cables, nor shall any person, firm, or corporation nail, tie, or in any other manner fasten any cards, signs, posters, boards, or any other article to any tree, shrub, or plant that is now or may hereafter, be growing upon any public highway or public place within the City of Ferndale.

Sec. 5. No person, firm, or corporation shall excavate any ditches, tunnels, or trenches, within a radius of ten feet from any tree, shrub, or plant that is now, or may hereafter be, growing upon any public highway or place within the City of Ferndale, without first obtaining a written permit from the Department of Public Works. All persons, firms, or corporations, desiring to excavate any ditches, tunnels, or trenches shall deposit a sum sufficient to cover the cost of inspection and damage that may result therefrom.

Sec. 6. All trees, shrubs, or plants within the limits of any street, boulevard, highway, or public place near any excavation\*with a good, substantial frame box not less than four (4) feet square and six (6) feet high and all building material or other debris shall be kept at least four (4) feet from any tree, shrub, or plant.

Sec. 7. Every owner of any tree, shrub, or plant growing on private property and overhanging the streets or highways within the City of Ferndale shall trim the branches so that they shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of twelve (12) feet above the surface of the street or sidewalk, and said owner or owners shall remove all dead, diseased, or dangerous trees growing on private property and overhanging the streets and highways within the City of Ferndale, and shall remove broken or decayed limbs from such trees which may be considered a menace to the safety of the public.

\*\*or construction of any building, or structure, shall be guarded

Sec. 16. It shall be unlawful for any person, firm, or corporation to plant any trees, shrubs, or any other plants in any public highway within the City of Ferndale, either for himself or for anyone else, until he has secured a written permit therefor from the Department of Public Works, said permit shall be complied with in strict accordance with the rules and regulations therein prescribed. The application for such permit shall designate the locations and species of trees, shrubs, or plants to be planted and the method proposed to be followed; the Department of Public Works shall have the authority to refuse the granting of such permit, when such planting is likely to create a public danger or a nuisance to the public. It shall be the duty of the Department of Public Works to remove or cause to be removed all trees, shrubs, or plants planted upon the public highways and public places within the City of Ferndale, when, in its judgment, such removal shall be beneficial to the peace, health, and safety of the public and public improvements, or where said trees, shrubs, or plants, are detrimental to the growth of adjacent trees, but in such cases, where, in the judgment of the Department of Public Works, there exists the necessity of replacing these trees, shrubs, or plants, the cost thereof shall be at the expense of the abutting property owners, either by direct payment of said amount to the City Treasurer or by assessment as heretofore provided. The cost of such removals shall be from funds provided for from general taxation.

Sec. 17. Any person, firm, or corporation, desiring to remove a live tree for the construction of walks, drives building, or other structures for his own gain, shall deposit with the Department of Public Works a sum equal to the value of the tree or trees as determined by the said Department of Public Works.

Sec. 18. No person shall hinder, prevent, or interfere with the agents or employees of the Department of Public Works while engaged in carrying out the provisions of this ordinance.

Sec. 19. All ordinances or parts of ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 20. Any person, firm, or corporation found guilty of violating any of the provisions of this ordinance shall be punished by a fine not to exceed One Hundred Dollars (\$100) or by imprisonment for a period not to exceed Ninety (90) days or both such fine and imprisonment in the discretion of the court.

Made, passed, and adopted by the Ferndale City Commission at a regular meeting held on the 27th day of June, A.D. 1938

Theodore L. Degenhardt,  
Mayor

Attest:  
T.H. O'Donoghue, City Clerk