

Chapter 29 VEGETATION*

*Cross references: Buildings and building regulations, Ch. 6.

Art. I. In General, §§ 29-1--29-15
Art. II. Weeds, §§ 29-16--29-30
Art. III. Trees, §§ 29-31--29-54
Div. 1. Generally, §§ 29-31--29-40
Div. 2. Community Tree Board, §§ 29-41--29-50
Div. 3. Planting and Preservation, §§ 29-51--29-54

ARTICLE I. IN GENERAL

Secs. 29-1--29-15. Reserved.

ARTICLE II. WEEDS*

*Cross references: Health and sanitation generally, Ch. 12; nuisances generally, Ch. 15.

State law references: Control and eradication of noxious weeds, MCL 247.61 et seq., MSA 9.631(1) et seq.

Sec. 29-16. Poisonous or injurious weeds defined.

For the purpose of this article, poisonous or injurious weeds shall include those species and varieties designated as noxious by the State Noxious Weed Act, Act 359 of the Public Acts of 1941 of the State of Michigan [MCL 247.61 et seq., MSA 9-631(a) et seq.], as amended. In addition, the following species and varieties of plants are hereby designated as injurious weeds and declared to be a common nuisance; ragweed (any species of *Ambrosia*), poison ivy (*Rhus radicans*), poison sumac (*Toxicodendron vernix*), poison oak (*Toxicodendron quercifolium*), marijuana (*Cannabis sativa*), Belladonna (*Atropa belladonna*). The building department is hereby empowered to designate and declare by a written rule or regulation, additional species and varieties of plants as actually or potentially injurious to the public health, and all such are also declared to be a common nuisance.

(Ord. No. 21, § 2, 7-21-59; Ord. No. 249, § 9, 5-13-93)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 29-17. Prohibition.

It shall be unlawful for any owner, occupant, agent or person having control or management of any land, either public or private, either occupied or vacant, within the city, to allow the presence there on or on any portion thereof:

- (1) Of poisonous or injurious weeds;
- (2) Of other weeds of any species or variety exceeding one foot in height;
- (3) Of wild growing brush or underbrush exceeding one foot in height.

(Ord. No. 21, § 1, 7-21-59)

Sec. 29-18. Abatement procedure.

In any case in which the owner, occupant, agent or person having control or management of any land, allows the presence thereon, or on any portion thereof, of any weeds or brush in violation of the provisions of section 29-17, the city council may assign employees, or request a city department to assign employees, to enter upon the land and to destroy such weeds or growth by spraying, cutting or by other methods acceptable to the city council. Where fences, crops or other valuable property interfere with or prevent the assigned employees from proceeding to abate the violations, or where for other reasons the city council determines it is impractical to first assign employees to such operations, the city council shall mail to any such owner, occupant, agent or person having control or management of the land to the last known address thereof a notice in writing to abate the violations within ten (10) working days. If none of these parties can be found, the notice may be posted upon the premises, on a card not smaller than eight (8) inches by ten (10) inches. Upon the failure, neglect or refusal of any such owner, occupant, agent or person to abate the stated violations within the stated time the city council may assign such employees to enter upon the land and to destroy such weeds or growth by spraying, cutting, or by other acceptable methods, and any expense in such abatement if not paid to the city within sixty (60) days from the date a statement thereof was forwarded to the party, shall be reported to the assessor who shall assess the amount against the land in question. Any failure to give the written notice shall not constitute a defense to any action to enforce the provisions of section 29-17.

(Ord. No. 21, § 3, 7-21-59)

Sec. 29-19. Right of access for investigation and abatement.

Any officer designated by the mayor, shall be granted free access to and from any land for the purpose of investigation whether violations of this article exist, and for the work necessary to accomplish the abatement of any violation hereof found to exist. No person shall obstruct or prevent such work. Such authorized representatives after performing these duties in a prudent manner shall not be liable for suit in any action of trespass therefor, and shall be defended in any action arising therefrom, by the city attorney until the final disposition of the proceedings.

(Ord. No. 21, § 4, 7-21-59)

Sec. 29-20. No liability for destruction of innocent vegetation during abatement.

In the event of destruction or damage of vegetation not declared unlawful in this article, during the course of normal operations directed at destruction of vegetation herein declared unlawful growing on the same tract, part or parcel of land, the city reserves the right to reject any and all claims resulting from such damage.

(Ord. No. 21, § 5, 7-21-59)

Sec. 29-21. Exemptions for weeds over twelve inches not considered a nuisance.

If in the opinion of the building department, any area on which any nonpoisonous or noninjurious weeds or brush are permitted to grow to a height greater than twelve (12) inches and such growth does not constitute a nuisance, the building department may except such area from the provisions of this article.

(Ord. No. 21, § 6, 7-21-59; Ord. No. 249, § 10, 5-13-93)

Sec. 29-22. Enforcement.

The building department through its officers, department heads, inspectors and employees shall enforce the provisions of this article.
(Ord. No. 21, § 7, 7-21-59; Ord. No. 249, § 11, 5-13-93)
Secs. 29-23--29-30. Reserved.

ARTICLE III. TREES*

***Editor's note:** Ord. No. 252, § 1, adopted June 10, 1993, amended the Code by adding provisions designated as Art. I, §§ 29-1--29-4; and Ord. No. 255, § 1, adopted Oct. 14, 1993, added provisions pertaining to a tree board and designated as §§ 29-1--29-4. For purposes of classification, and in order to avoid duplication of section numbers, at the editor's discretion, the provisions of § 1 of Ord. No. 255 have been redesignated as Div. 2 of Art. III, §§ 29-41--29-44 and the provisions of § 1 of Ord. No. 252 have been redesignated as Div. 3, §§ 29-51--29-54.

DIVISION 1. GENERALLY

Secs. 29-31--29-40. Reserved.

DIVISION 2. COMMUNITY TREE BOARD*

***Note:** See the editor's note to Art. III.

Sec. 29-41. Appointed; advisory committee; general responsibilities.

A community tree board consisting of five (5) residents appointed by the city council for terms of three (3) years shall be responsible for writing and implementing the annual community forestry work plan. The tree board shall determine public tree care policies for planting, maintenance and removals and make provisions for establishing and updating a list of recommended street tree species to be planted with spacing and location requirements.

In the absence of sufficient volunteer resident(s) for appointment of a full tree board, an advisory committee of city employees and residents shall be created; the city employees, one of which shall be the director of public works, shall be appointed by the city manager and the residents shall be appointed by the city council. The committee shall be charged with the same responsibilities and duties of the community tree board. The committee shall be dissolved when there are sufficient residents appointed to fill the seats on the community tree board.

(Ord. No. 255, § 1, 10-14-93; Ord. No. 283, § 1, 9-11-97)

Sec. 29-42. Tree inventory.

The tree board shall take an inventory of trees on public property, including the species, location and condition of each tree. The inventory data shall be summarized in a written report for a presentation and approval by the city council. The report should be an objective analysis of the present state of community trees with recommendations for future management. The annual community forestry work plan should address planting,

watering and fertilizing, dead and hazardous tree removal, safety and pruning, insect and disease control.

(Ord. No. 255, § 1, 10-14-93)

Sec. 29-43. Woodlands policies.

The community tree board shall recommend to the city council tree care policies for the protection, preservation, replacement and use of privately owned woodlands located in the city in order to minimize disturbance to them and to prevent damage from erosion and loss of wildlife and vegetation. The tree board shall recommend actions to take to protect the integrity of woodland areas as a whole in recognition that woodland areas serve as part of an ecosystem and to place priority on the preservation of woodlands to the greatest extent reasonably possible.

(Ord. No. 255, § 1, 10-14-93)

Sec. 29-44. Arbor Day.

The community tree board shall organize an annual Arbor Day observance by the city and recommend other measures to meet the standards of the Tree City USA program of the National Arbor Day Foundation in cooperation with the U.S. Forestry Service and the National Association of State Foresters.

(Ord. No. 255, § 1, 10-14-93)

Secs. 29-45--29-50. Reserved.

DIVISION 3. PLANTING AND PRESERVATION*

*Note: See the editor's note to Art. III.

Sec. 29-51. Installation of trees.

(a) Any person securing a permit to construct a new principal building shall plant, prior to the issuance of a certificate of occupancy for such building, at least one (1) deciduous tree of at least two and one-half-inch caliper for each fifty (50) feet of frontage to be placed between the sidewalk and the curb in the public right-of-way.

(b) If due to weather conditions the trees required to be planted under paragraph (a) cannot be planted prior to issuance of the certificate of occupancy, the person securing the building permit shall deposit with the city a sum equal to the cost of planting such trees in accordance with a written schedule approved by the city. Alternatively, such person may post with the city, an irrevocable letter of credit drawn upon a bank acceptable to the city in the same amount to ensure the planting of the required trees when weather conditions permit.

(Ord. No. 252, § 1, 6-10-93)

Sec. 29-52. Preservation of existing trees.

All thriving existing trees which are not located within an area ten (10) feet larger than the footprint of the proposed principal building, or within the area where the driveway or other improvements are to be located, shall be preserved by the builder or person developing the subdivision or lot, unless the building inspector determines that such trees are of a species which is neither approved nor suitable for preservation. The builder or person developing the subdivision or lot shall erect and maintain suitable

barriers (such as snow fencing or cyclone fencing) to protect the trees to be preserved from damage caused by construction activities. Such person shall remove any trees that are dead or dying as determined by the building inspector. This section shall not, however, prevent the homeowner actually occupying the lot from removing any trees from the lot.

(Ord. No. 252, § 1, 6-10-93)

Sec. 29-53. Approved species.

The following species of trees shall be permitted:

- (1) Norway maple;
- (2) London plane;
- (3) Pin oak;
- (4) Honey locust;
- (5) Sugar maple;
- (6) Little leaf linden;
- (7) Modesta ash;
- (8) Idaho locust;
- (9) Moraine locust;
- (10) Paul scarlet hawthorne;
- (11) Other species approved by the building department.

(Ord. No. 252, § 1, 6-10-93)

Sec. 29-54. Quality of trees planted; maintenance bond or deposit.

All trees planted pursuant to this article shall be of first quality meeting the standards of the American Association of Nurserymen, and shall be guaranteed for one (1) year. The person responsible for planting any tree under this article shall furnish to the city a maintenance bond equal to the amount necessary to replace any such tree that dies within one (1) year of its planting date, based upon a written city schedule.

(Ord. No. 252, § 1, 6-10-93)