

City of Tecumseh, MI

Chapter 86 VEGETATION\*

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**\*Cross references:** Buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; land divisions and other subdivisions of land, ch. 46; parks and cemeteries, ch. 54; streets, sidewalks and other public places, ch. 70; waterways, ch. 94; zoning, ch. 98.

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## ARTICLE II. WEEDS AND NOXIOUS PLANTS\*

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**\*Charter references:** Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

**State law references:** Noxious weeds, MCL 247.61 et seq.; obnoxious plants and trees, MCL 124.151 et seq.

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### Sec. 86-31. Prohibited.

No owner of any lot, place or area within the city, or the agent of such owner, shall permit on such lot, place or area, or upon any sidewalk or portion of a street adjoining such lot, place or area, any weeds, including but not limited to ragweed, Canada thistles, burdocks, crab grass, wild growing bushes, milkweeds, wild carrots, oxeye daisies, or deleterious, unhealthful growths, or other noxious matter, that may be growing, lying or located on such lot, or permit any growth which obstructs the safety vision or the driver of a motor vehicle.

(Comp. Ords. 1982, § 4.980a.00)

### Sec. 86-32. Duty of occupant or owner.

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city to cut and remove or destroy by lawful means all such weeds and grass as often as may be necessary to comply with the provisions of section 86-31. Any such weeds or grass which attain a height of six inches are declared to be a public nuisance.

(Comp. Ords. 1982, § 4.981.00)

### Sec. 86-33. Action upon noncompliance.

If the provisions of sections 86-31 and 86-32 are not complied with, and any weeds, grass or other vegetation described in section 86-31 are permitted to attain a height of six inches, or obstruct the safety vision of the driver of a motor vehicle, on any property described in those sections, the city manager or his designee may cause such weeds, grass or other vegetation to be removed or destroyed.

(1) The city shall give written notice to the individual named in the tax statement and notice sent to said individual at the last known address shall be sufficient to proceed under the provision, after ten days from the date of mailing.

(2) If the grass or weeds have not been cut by that time the city manager or his designee or other authority agent may enter onto the property and cut or remove the grass or noxious weeds.

(3) If the city is required to send notice within a 12-month period or growing season, the violation shall continue a second offense and require only a five-day notice.

(4) If the city is required to send a third notice within a 12-month period or growing season, the city shall give a five-day written notice before entering onto the property.

(5) Any person found to have violated this section three times in one 12-month period or one growing season, shall be guilty of a civil infraction as set forth in section 1-7(e) and (f) and subject to the fines and costs set forth therein.

(Comp. Ords. 1982, § 4.982.00; Ord. No. 3-04, 8-2-2004)

#### Sec. 86-34. Charge included in tax bill.

When the city has effected the cutting or removal of such obnoxious growth, or has paid for its removal, the actual cost of such cutting, removal or destruction, plus \$20.00 or 20 percent, whichever is greater, for inspection, scheduling, administration, billing and other connected costs, if not previously paid by such owner, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city; and the charge shall be due and payable by the owner at the time of payment of such tax bill.

(Comp. Ords. 1982, § 4.983.00)

#### Sec. 86-35. Notice to destroy.

Notice of the provisions of this article shall be published in a newspaper circulating within the city once each month during the months of May through September of each year, which notice is deemed and declared to be adequate and sufficient notice to all persons affected.

(Comp. Ords. 1982, § 4.984.00)

Secs. 86-36--86-70. Reserved.

### **ARTICLE III. TREES**

#### **Sec. 86-71. Administrator and duties.**

The city manager or his designee shall direct, regulate and control the planting, insect and disease control, fertilizing, mulching and removal of all trees growing in any rights-of-way, parkways, parks or other public areas of the city. The department of public works shall be charged with the routine maintenance and care of the trees under the provision of this article. The city manager or his designee shall cause the provisions of this article to be enforced.

(Comp. Ords. 1982, § 11.050.01)

#### **Sec. 86-72. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*Public place* means all other grounds owned by the city.

*Street* means all the land lying between the property lines on either side of all streets, rights-of-way and boulevards in the city.

*Tree* means all woody vegetation.

(Comp. Ords. 1982, § 11.050.02)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 86-73. Planting and control of trees.**

(a) The city manager or his designee shall have the exclusive power to plant, maintain and remove trees and herbaceous material, both living and dead, in any right-of-way, park or public place of the city.

(b) The city manager or his designee shall assume complete responsibility for the selection, planting, maintenance and removal of all trees growing in any right-of-way, or growth into the right-of-way, park or public place of the city as promptly as financial and labor conditions permit.

(c) Permits for planting, maintenance and removal of trees may be granted as specified in sections 86-76 and 86-77.

(Comp. Ords. 1982, § 11.050.03)

### **Sec. 86-74. Varieties of trees.**

No willow (*Salix*--all varieties, except horticultural varieties), poplar (*Populus* sp.), soft (silver) maple (*Acer saccharinum*), box elder (*Acer negundo*), tree of heaven (*Ailanthus Altissima*, *silanthus altissimus*), Chinese elm (*Ulmun parvifolia*), American elm (*Ulmus americanna*), or other trees and vines determined to be undesirable by the city manager or his designee shall be planted in the public rights-of-way, parks or public places in the city.

(Comp. Ords. 1982, § 11.050.04)

**State law references:** Obnoxious plants and trees, MCL 124.151 et seq.

### **Sec. 86-75. Location of planting and height of branches.**

(a) There shall be a minimum distance of 50 feet between trees planted in the city right-of-way. No trees shall be planted in the right-of-way between the sidewalk and the curb, less than three feet from the curb or sidewalk lines. However, where the right-of-way is less than six feet, but not less than four feet in width, a tree may be planted midway between the curb and the sidewalk. Any exceptions to these requirements will be determined by the city manager or his designee. No tree shall be planted which is less than 1 1/2 inches in diameter measured at six inches above the ground.

(b) Any tree located on private property so near to a street or right-of-way, park or public place as to overhang, obstruct the view, interfere with light from any street lamp or interfere with the use of the street or right-of-way, park or public place so that in the opinion of the city manager or his designee it endangers the life, health, safety or property of the public is declared a public nuisance; and in such case the city manager or his designee shall notify the owner or occupant of the property on which the tree or plant is located in writing of the existence of such nuisance with instructions for its removal or correction within such time as the city manager or his designee shall deem reasonable; and if such owner or occupant fails to comply with such notice, the city manager shall cause such nuisance to be removed or corrected, and the expense of such removal or correction shall be collected in the manner set forth in section 86-84. All

trees and plants located on the triangle formed by two property lines at the intersection of two streets, and extending for a distance of 25 feet each way from the intersection of the rights-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than three feet above the surface of the roadway, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface.

(Comp. Ords. 1982, § 11.050.05)

**Charter references:** Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

### **Sec. 86-76. Permit to plant, treat or remove.**

No person shall plant, move, spray, fertilize, brace, trim, do surgery work, cut above or below ground, cut any branch or root from or otherwise disturb any tree in any right-of-way, park or public place of the city, nor cause such acts to be done by others, without first obtaining a written permit from the city manager or his designee, who shall issue the permit if, in his judgment, the desired work is necessary, and the proposed method of workmanship is of a satisfactory nature. The person receiving such permit shall abide by the specifications and standards of practice adopted by the city.

(Comp. Ords. 1982, § 11.050.06)

### **Sec. 86-77. Permit for removal of trees.**

(a) As a condition to any permit to remove any tree, the city manager or his designee may require that the permittee plant a tree in place of the one removed. Whenever any such tree has been destroyed or removed, it shall be a misdemeanor for the permittee to fail, refuse or neglect to plant another tree of the type, size and at the location specified in the permit, within six months or within the next planting season, from the date of the issuance of the permit.

(b) Every permit granted by the city manager or his designee shall describe the work to be done, specify the species or variety, size, grade, location, briefly specify the method of planting, method of support and trimming all trees concerned, and contain a definite date of expiration. Any permit may be declared void if its terms are violated.

(Comp. Ords. 1982, § 11.050.07)

### **Sec. 86-78. Protection of trees.**

(a) No person shall break, injure, climb, peel, cut, mutilate, kill or destroy any tree or set fire or permit any fire to burn where such fire or the heat of the fire will injure any portion of any tree in any right-of-way, park or public place of the city; no person shall pluck, break, trample upon or interfere with any flower on any right-of-way, park or public place; no person shall knowingly permit any wire designed to carry electric current to come in contact with any such tree unless protected by approved methods; and no person shall attach any electric insulation to any tree or shall excavate any ditches, tunnels or trenches, or lay any drive within a radius of five feet from any tree without first obtaining a written permit from the city manager or his designee.

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

(Comp. Ords. 1982, § 11.050.08)

**State law references:** Injury or destruction of trees on public property, MCL 19.142; destruction or injury of trees on public highways, MCL 247.235; destruction of trees and shrubs, MCL 750.382.

**Sec. 86-79. Entering upon private lands to abate infestations; notice, payment of cost.**

(a) Any trees or plants on any private lands whereon insect pests and plant diseases may be found to have injuriously affected either the trees and plants, or which may injuriously affect the public health and welfare, may be entered upon by the city manager or his designee or other authorized employees of the public works department to make field inspections, including the removal of specimens for laboratory analysis that may be necessary to determine the presence of the infestation or to locate any private lands which might serve as a breeding place for insects and disease.

(b) After determination of infestation, the city manager or his designee or authorized employees of the public works department may, by written notice, give the property owner a definitive time but not less than ten days to remove, treat and dispose of the infested lands, trees or plants. If the work is not satisfactorily completed by that time, the city manager or his designee or other authorized agent may enter upon the property and remove, destroy and/or treat the infested area by approved practice. In such case, all costs pertaining to the destruction of such infestation shall be paid from the city treasury and the amount assessed against the property on the next general assessment roll of the city.

(Comp. Ords. 1982, § 11.050.09)

**Charter references:** Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

**State law references:** Control of insect pests and contagious plant diseases, MCL 286.251 et seq.; white pine blister rust, MCL 286.101 et seq.

**Sec. 86-80. Access water to tree roots, not to be impeded.**

No person shall, without the written permit of the city manager or his designee, deposit, place nor maintain upon the surface of any street or public right-of-way of the city any sod, cement or other material which shall impede the free passage of water and air to the roots of any tree growing in such street or public right-of-way; however, nothing contained in this section shall be construed to require the city, in the construction of sidewalk or pavements, to leave any open space around the trunk of any tree when such tree is planted or is growing within the lines established as a sidewalk line; further, if any tree grows within a distance of less than one foot from the inner or outer established sidewalk lines, the sidewalk shall be so constructed as to leave an open space of one foot around the base of such tree.

(Comp. Ords. 1982, § 11.050.10)

**Sec. 86-81. Enforcement powers.**

The city manager or his designee shall have and possess powers for the purpose of enforcing this article, and it is made the duty of the city manager or his designee to observe that the provisions of this article are strictly complied with and to make complaint for any violation of such provisions.

(Comp. Ords. 1982, § 11.050.11)

**Sec. 86-82. Property development.**

Any property development in any manner within the city limits shall require planting of trees not less than but at least 50-foot intervals. All tree plantings as such shall conform to provisions and regulations of this article.

(Comp. Ords. 1982, § 11.050.12)

**Sec. 86-83. No interference with the city manager.**

No person shall prevent, delay or interfere with the city manager or his designee in the execution of enforcement of this article; however, nothing in this section shall be construed as an attempt to prohibit a public hearing or any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(Comp. Ords. 1982, § 11.050.13)

**State law references:** Obstruction of government officers, MCL 750.479.

**Sec. 86-84. Collection of expenses.**

Any expenses due to the city in connection with the enforcement of this article shall be certified by the city manager or his designee to the city council on or before April 1 of each year. Such expenses shall be certified by the council to the city assessor and assessed against the premises on whose behalf the expenses were incurred and shall be collected or returned in the same manner as municipal taxes are assessed, collected and returned.

(Comp. Ords. 1982, § 11.050.14)

**Sec. 86-85. Violation and penalty.**

Any persons who shall violate any provision of this article or any lawful order issued in pursuant of the provisions of this article shall be guilty of a misdemeanor and, upon conviction before a court of competent jurisdiction, shall be punished as provided in section 1-7. Imposition of any penalty for a violation of this article shall not be construed as a waiver of the right of the city to collect the cost of work performed in accordance with the provisions of this article and the provisions of this article in such case made and provided, where it is necessary of the city to perform work in accordance with provisions of this article.

(Comp. Ords. 1982, § 11.050.15)