

Dowagiac

ORDINANCE #1
January 22, 2007

ORDINANCE NO. 1, 2007

ORDINANCE-----

ORDINANCE TO AMEND CHAPTER 86, "VEGETATION"; ARTICLE II. "TREES" OF THE DOWAGIAC CITY CODE BE AND IS HEREBY AMENDED BY ITS REPEAL AND THE ADOPTION OF A NEW ARTICLE II "TREES" OF THE DOWAGIAC CITY CODE.

THE CITY OF DOWAGIAC ORDAINS:

Section 1: That Chapter 86, Vegetation; Article II, "Trees" of the Dowagiac City Code be and hereby is amended to read as follows:

ARTICLE II. TREES

Sec. 86-26. 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:

Arboriculture or Tree Preservation: Means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees, and the removal and prevention of tree pests, blights and diseases of any and all kinds.

Certified Arborist: Means a person in possession of a current International Society of Arboriculture Certification.

Community Forest: Community Forest is herein defined as all street, public and park trees as a total resource; the sum of all trees within the City of Dowagiac.

Director of Public Services or Director: Means the Director of Public Services of the City of Dowagiac.

Diseased Trees: Those trees that may constitute a hazard to life and property or harbor insects or disease which

Topping: The severe cutting-back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Tree: A tree is a woody plant, which at maturity will be at least twelve (12) feet high.

Tree Lawn: That part of a street or highway, not covered by sidewalk or other paving lying between the property line and that portion of the street or highway usually used for vehicular traffic. The grassy area of the right-of-way located between the sidewalk and the roadway along streets with closed curbed and guttered storm drainage systems. Right-of-ways with open storm drain ditches are not classified as tree lawns.

Tree removal: The complete removal of a tree including the grinding of the stump and the cleanup of all debris.

Sec. 86-27. Applicability of Article.

The provisions of this article, except as otherwise specifically stated in this article, shall apply only to public street, parkways, parks and other land publicly owned or controlled by the City.

Sec. 86-28. Creation of Tree Board Membership.

There is hereby created and established a City Tree Board which shall consist of five members, citizens and residents of this City, who shall be appoint by City Council. The members shall be comprised of the members of the Cemetery Board.

Sec. 86-29. Term of Office Compensation.

- (A) The term of the five-person City Tree Board to be appointed by the City Council shall be that two of the members shall be appointed for one year, two members for two years and one member for three years; thereafter, members shall be appointed for a term of three years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion.

this City when, in his opinion, such trees constitute a menace to public property, public safety or public welfare of this City. The Director is also given authority and control in connection with the issuing of permits hereinafter provided for. In the exercise of any or all of the powers herein granted, the Director shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the City as he may from time to time determine.

Sec. 86-35. Permit Requirement.

Any property owner desiring to plant or remove a street tree or other tree in the public right-of-way (other than pruning per Sec. 86-41 or Sec. 86-42) is required to submit an application to the City for approval.

Any public servant or employee performing normal duties shall not require a permit.

No person shall plant, remove, destroy, cut, prune, fertilize, treat, break, climb, injure or spray any tree existing on any public place in this City or authorize or procure any person to do so or remove or tamper with any device whatsoever either to such tree or to any device placed for the protection of the tree or authorize or cause the same to be done, except having first obtained written permission from the Director or his designee to do so.

Sec. 86-36. Street Tree Species to be Planted.

The City of Dowagiac shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the City upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that affect the population of the community forest.

Sec. 86-37. Spacing.

The spacing of street trees will be in accordance with the three species size classes referred to in Sec. 86-35, and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plantings designed and approved by the Board.

- (C) Pruning of trees shall be in conformance with American National Standards Institute (ANSI) pruning standards as published by the National Standards of International Society of Arboriculture (ISA).

Sec. 86-40. Emergencies.

In case of emergencies, such as windstorms, ice storms, floods, major interruptions of utility service or other disasters, any requirement of this chapter, which would hamper private or public work to restore order to the City, shall be waived during the emergency work so as to prevent injury or damage to the public. Within forty-eight (48) hours, the City Manager shall be notified of the location(s) and nature of any emergency maintenance affecting public trees. This shall not be interpreted to be general waiver of the intent of this article.

Sec. 86-41. Tree Topping.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other trees on public property without prior written approval of the Director or his designee. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Director or his designee.

Sec. 86-42. Pruning Corner Clearance.

- (A) Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that the branches 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 ten (10) feet above the surface of the sidewalk and eighteen (18) feet above the surface of the street. The owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs, which constitute a menace to the safety of the public.
- (B) The City may, in the interest of public health and safety, prune any tree that overhangs into any street or right-of-way within the City.

insects or disease, which constitute a potential threat to other trees within the City.

- (B) The City Tree Board will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice.
- (C) In the event of failure of owners to comply with the provisions, the City shall have the authority to remove the trees and charge the cost of removal to the owner's property tax notice.

Sec. 86-45. Removal of Stumps

All stumps of street and parks trees shall be removed to a depth of no less than six (6) inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 86-46. Protection of Trees.

(A) Abuse of Trees

No person shall intentionally, in any public place, damage, cut, carve, transplant or remove any tree, attach any rope, wire, nails, advertisements, posters or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such trees to make contact with them, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree covered under this Article.

No person shall place or maintain upon the ground in any public place any stone, concrete, or brick or other impervious material or substance in such a manner as may obstruct the free access of air and waters to the roots of any tree upon any public place in the City without first having obtained written permission from the Director or his designee. Unless otherwise provided for there shall be maintained about the base of the trunk of each such tree at least nine (9) square feet of open ground for a tree three (3) inches in diameter and for every two (2) inches of increase of such diameter, there shall be an increase of at least one (1) square foot of open ground.

Sec. 86-48. Arborist Certification.

All private arbor care companies working within the City shall have at least one employee or manager who is International Society of Arboriculture (ISA) certified.

Sec. 86-49. Penalty.

Any person violating any provision of this article shall constitute a violation of this Code, punishable as provided in Chapter 1, "GENERAL PROVISIONS", Section 1-16, "General Penalty", of the Dowagiac City Code.

Sec. 86-50 - 86-55. Reserved.

Section 2: That pursuant to the provisions of Chapter 1, Section 1-4 of the Dowagiac Charter and due to the length of this Ordinance, the Dowagiac City Clerk be and is hereby directed to forthwith cause publication and posting of this Ordinance on the bulletin board of the Dowagiac City Hall, the same being the usual place of posting for the actions of the City Council.

Moved by: Schuur

1st reading January 22, 2007

Seconded by: Laylin

Ayes:

Nayes:

Absent:

Abstain:

ADOPTED/REJECTED

Donald D. Lyons, Mayor



James E. Snow, City Clerk

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Moved by: Schuur 1st reading January 22, 2007

Seconded by: Laylin 2nd reading February 12, 2007

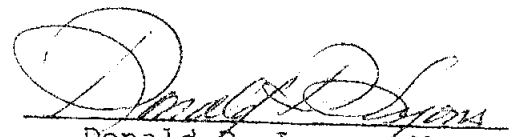
Ayes: Five (5); Burling, Comstock, Laylin, Murray and O'Konski

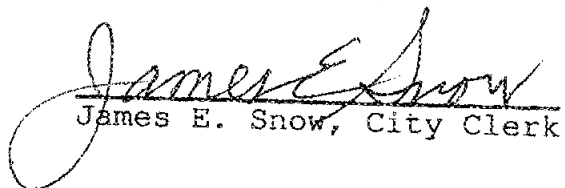
Nayes: None (0).

Absent: One (1); Schuur

Abstain: None (0).

ADOPTED/~~RESERVED~~


Donald D. Lyons, Mayor


James E. Snow, City Clerk

EFFECTIVE: February 13, 2007