

Chapter 82 VEGETATION*

*Cross references: Buildings and building regulations, ch. 14; environment, ch. 30; streets, sidewalks and other public places, ch. 62; subdivisions, ch. 66; zoning, app. B; landscaping regulations, app. B, art. 14.

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ARTICLE I. IN GENERAL

Secs. 82-1--82-25. Reserved.

ARTICLE II. DUTCH ELM DISEASE AND EMERALD ASH BORER INFESTATION

Sec. 82-26. 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:

Burn means to reduce the wood to ash by fire, and all such burning must conform to the other applicable sections of this Code.

Remove means to physically transport trees outside of the city for disposal in conformity with applicable state laws and local ordinances regulating such disposal elsewhere.

Trees includes parts of trees, branches, and logs.
(Code 1991, art. V, ch. 4, §§ 101, 102)

Cross references: Definitions generally, § 1-2.

Sec. 82-27. Nuisances.

(a) Trees of all species and varieties of elm, zelkova and planera infected with the fungus *Ceratostomella ulmi*, commonly known as Dutch elm disease, or in a dead or dying condition such as to serve as breeding places for *Scolytus multistriatus*, commonly known as the European elm bark beetle, are declared to be public nuisances.

(b) Trees of all species and varieties of ash infested with the emerald ash borer (*agrilis planipennis*), in a dead or dying condition such as to serve as breeding places for the emerald ash borer beetle, are declared to be public nuisances.

(Code 1991, art. V, ch. 4, § 101; Ord. No. 372-03, pt. II, 12-1-2003)

Sec. 82-28. Enforcement; right of entry.

The city administrator 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 trees are public nuisances. It shall be unlawful for any person to prevent the city administrator entering on private property for purposes of carrying out his duties under this article or to interfere with the city administrator in the lawful performance of his duties under this article.

(Code 1991, art. V, ch. 4, § 103)

Sec. 82-29. Duty to remove nuisance trees.

It shall be the duty of all owners and other persons in possession of real property whereon public nuisances, as established in this article, are kept or stored to remove such trees within ten days following notification that the nuisance exists.

(Code 1991, art. V, ch. 4, § 102; Ord. No. 372-03, pt. III, 12-1-2003)

Sec. 82-30. Notice to property owner to abate nuisance.

If trees on private property are discovered to be public nuisance pursuant to this article, the city administrator may give to the owner of the premises, as shown by the current tax roll of the city, where such trees are situated, notice of the existence of such public nuisance and requiring the abatement of the nuisance by removal of such tree within a period of ten days following such notice. The notice shall also notify the owner that unless such trees are removed within the ten-day period, the city may proceed with the removal and assess the cost thereof against the property as for other nuisances.

(Code 1991, art. V, ch. 4, § 104; Ord. No. 372-03, pt. III, 12-1-2003)

Sec. 82-31. Abatement of nuisance by property owner.

After receipt of notice as provided in section 82-30, it shall become the duty of the owner of the premises to cause such tree to be removed in conformity with this article at his expense. If the person charged with such removal prefers to have the city perform the work, the person may request that the work be done by the city. If the city shall remove any tree under this article, all city costs and expenses incurred in connection therewith shall be a debt owing to the city from the property owner and may be reported to the council for special assessment against the lands whereon the tree was situated as for other nuisances.

(Code 1991, art. V, ch. 4, § 105; Ord. No. 372-03, pt. III, 12-1-2003)

Sec. 82-32. Maintenance of trees on public streets.

Trees on public streets within the city shall be removed at the expense of the city. (Code 1991, art. V, ch. 4, § 106; Ord. No. 372-03, pt. III, 12-1-2003)
Secs. 82-33--82-60. Reserved.

ARTICLE III. PUBLIC PROPERTY

Sec. 82-61. 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:

Plant life means living trees, shrubs, flowers, grasses, and all other plant life except weeds, as defined in article IV of this chapter.

(Code 1991, art. VII, ch. 4, § 101)

Cross references: Definitions generally, § 1-2.

Sec. 82-62. Injury to or damage or destruction of plant life.

Except as otherwise provided in this article, no person shall willfully or maliciously injure, damage, or destroy any plant life on public property or fail to exercise due care to avoid injuring, damaging, or destroying any plant life on public property.

(Code 1991, art. VII, ch. 4, § 102)

Sec. 82-63. City's right to trim, destroy or remove plants.

Every person who plants or installs plant materials on public property and public or utility easements does so at his own risk, and the city reserves the right to trim, destroy, or remove plant materials at any time without compensation to the person who planted or installed the plant life or to any abutting or neighboring property owner.

(Code 1991, art. VII, ch. 4, § 104)

Sec. 82-64. Prohibited plant materials.

No person shall plant any plant materials on public property which are prohibited from being planted on private property under article IV of this chapter. Land areas planted in violation of this section are declared to be public nuisances.

(Code 1991, art. VII, ch. 4, § 105)

Sec. 82-65. Damage to trees or shrubs.

No person shall fasten any wire, rope, chain, or cable to a tree or shrub on public property for the purpose of anchorage, nor shall any person nail, tie or in any other manner fasten any cards, signs, posters, boards or any other article to any tree or shrub on public property.

(Code 1991, art. VII, ch. 4, § 106)

Sec. 82-66. Protection of plant life during construction of improvements.

No person shall fail to exercise due care to avoid injury or damage to any plant life on public property in the course of constructing or installing land improvements, including sidewalks, driveways, and water/sewer lines, or utility service lines, and all persons shall in all events appropriately protect all trees and shrubs within six feet of any excavation or construction from injury or damage.

(Code 1991, art. VII, ch. 4, § 107)

Sec. 82-67. Maintenance of gas or oil pipelines and utility lines.

Gas or oil pipelines and all public utility lines laid on, under, or over public property shall be so maintained by the owner thereof as to avoid any leakage or other event which causes injury or damage to trees, shrubs, and grass on public property. All necessary maintenance and repairs to such gas, oil, and other public utility lines shall be promptly repaired by the owners thereof without any unnecessary injury or damage to trees, shrubs, and grass on public property. All injury or damage which does occur to such plant life must be promptly repaired at the expense of such owner.

(Code 1991, art. VII, ch. 4, § 108)

Sec. 82-68. Trimming or removal of plants on right-of-way.

A property owner personally or through designated agents may remove or trim plant life on the adjoining right-of-way in the course of a good faith effort to control weeds, to provide necessary visibility for traffic control devices, to remove diseased or dead branches, to provide required clear space over sidewalks and streets, and to provide landscaping improvements. A public utility may and shall trim trees or shrubs where necessary and appropriate to provide and maintain customer service. Except as provided in this section and in section 82-69, no person shall remove or trim plant life on public property otherwise than by and in conformity with permission granted by the council. The council shall not grant such permission unless it determines that such grant is in the public interest after a hearing with such notice to neighboring property owners as the council deems appropriate.

(Code 1991, art. VII, ch. 4, § 109)

Sec. 82-69. Council authority.

The council reserves to itself the power to exercise, by resolution, the full constitutional and statutory powers of the city to the control of highways, streets, alleys, other public places within the city and property owned or leased to the city and to cooperate with other governmental units and agencies. To this end, it shall be lawful for a person to deal with plant life on public property pursuant to permission granted pursuant to council resolution, for the county road commission to deal with plant life within highways under its jurisdiction, and for other governmental units and agencies, including the Southfield Public Schools, to deal with plant life on property owned by them, notwithstanding that the act would otherwise be a violation of this article.

(Code 1991, art. VII, ch. 4, § 110)

Sec. 82-70. Maintenance of property.

(a) Every property owner and other person in possessory control of a parcel of private property shall maintain such parcel and the adjoining right-of-way as follows:

- (1) There shall be a clear space upwards from the ground to eight feet above all public streets, alleys and sidewalks.
- (2) No broken, dead, diseased, or decayed limbs, branches, or trees which are likely to fall upon any public street or public sidewalk shall be permitted to exist.
- (3) No plant materials which interfere with or obscure the view of any traffic control device or street, alley, or sidewalk in such fashion as to constitute a hazard to the travelling public shall be permitted to exist.

(b) All properties found to be in a condition violative of this section are declared to be public nuisances.

(Code 1991, art. V, ch. 7, § 111)
Secs. 82-71--82-95. Reserved.

ARTICLE IV. WEEDS AND NOXIOUS GROWTHS*

*State law references: Weed control, MCL 247.61 et seq.

Sec. 82-96. 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:

Weeds means and includes all species and varieties of plants which are specifically stated to be noxious weeds under state law and also the following plants which, in the opinion of the council, are regarded as common nuisances: poison oak (*Toxicodendron quercifolium*), marijuana (*Cannabis sativa*), and belladonna (*Amaryllis belladonna*). Such plants are declared to be obnoxious weeds within the meaning of section 2.2(t) of the Charter.

(Code 1991, art. V, ch. 14, § 101)

Cross references: Definitions generally, § 1-2.

Sec. 82-97. Cutting or mowing by property owner.

It shall be the duty of all owners of land on which weeds are growing to destroy such weeds by cutting, mowing, or other equally effective means as often as may be necessary to prevent the weeds and grasses interspersed with such weeds from attaining a height greater than seven inches. This duty may not be delegated, but if an owner shall put others in possession or occupancy of the land, it shall thereupon also become the duty of such others to cooperate with and assist the owner in fulfilling his duties under this section. All persons who fail to fulfill their duties under this section are in violation of this article.

(Code 1991, art. V, ch. 14, § 102)

Sec. 82-98. Right-of-way maintenance by property owner.

It shall be the duty of every property owner to maintain the adjoining right-of-way which abuts his property by destroying weeds on such area in like fashion as if such area were wholly owned by such owner; provided, however, such duty shall not extend to maintaining areas platted as parks. All persons who fail to fulfill their duties under this section are in violation of this article.

(Code 1991, art. V, ch. 14, § 103)

Sec. 82-99. Exemption.

If and when the council, in its capacity as the board of health under section 6.9 of the Charter, determines, after a public hearing, that one or more parcels of land are located in uninhabited areas of the city or are so remote from occupied buildings or that other circumstances exist such that the lack of weed control as to all or a portion of the parcel will not adversely affect the public health, safety or welfare, it may grant a temporary exemption from all or a portion of the duties imposed by section 82-97 or 82-98 upon such terms and conditions as may be appropriate.

(Code 1991, art. V, ch. 14, § 106)

Sec. 82-100. Notice of violation.

The city administrator shall establish procedures to give reasonable notice to persons who may be violators of this article and their duties to correct the violations. The city administrator may publish a notice in a newspaper of general circulation in the city during the month of March that weeds not cut by May 1 of that year may be cut and recut when they exceed seven inches in height thereafter by the city and the owner of the property charged with the cost thereof. Such notice, if and when published, shall be deemed to be a notice to all property owners for the purposes of special assessment proceedings. Any person deeming himself aggrieved by an action of an administrative official under this article may appeal to the city council.

(Code 1991, art. V, ch. 14, § 104; Ord. No. 373-03, pt. I, 1-5-2004)

Sec. 82-101. Maintenance by city.

The city administrator may cause any and all lands found to have weeds and grasses interspersed with such weeds which have attained a height greater than seven inches to be cut or mowed as many times as is necessary to keep them below such height at the initial cost and expense to the city, but subject to reimbursement from the owners of the property by special assessment proceedings or otherwise.

(Code 1991, art. V, ch. 14, § 105)