

## City of Walled Lake – Tree Ordinance

### ARTICLE I. VEGETATION IN PUBLIC PROPERTY

#### Sec. 86-1. Definitions.

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

*Diameter breast height (DBH)* means a tree's diameter in inches measured by diameter tape at 4 1/2 feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.

*Director* means the director of planning and development and/or the director of the department of public works.

*Maintenance* means any act, except watering, for the purpose of preserving and protecting the beauty and health of a tree.

*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.

*Plant* means any nonwoody vegetation as distinguished from trees as defined in this section.

*Public right-of-way* means any street, highway, road, alley, or other way, the use of which by law or dedication, is for the public.

*Public utility* means any person conducting electrical, natural gas, telephone, telegraph or cable television services within public rights-of-way or private easements for public utilities, or the installation itself (pipe, main, pole, etc.), as the context may indicate.

*Trees* means any self-supporting woody vegetation, including shrubs and bushes, but excluding plants as defined in this section.

(Ord. No. C-225-01, § 1, 6-19-01)

#### Sec. 86-2. Scope of chapter; departmental responsibility.

The terms of this article shall apply to parks and public rights-of-way only unless otherwise specifically stated. The department of planning and development and the department of public works, acting through its director or his designated representative, shall have control over all trees and plants within parks and public rights-of-way and shall have the duty of enforcing the provisions of this article.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-3. Permits for tree planting, maintenance and removal.

(a) No person may plant, maintain or remove any tree, the trunk of which is located in a park or public right-of-way, without having first obtained a permit therefor from the department of building and safety and the department of public works. Such permits may be obtained, with payment of a fee as may be provided by resolution of the city council, only by a person who is the owner of land abutting a public right-of-way as indicated by the tax rolls of the city or a licensed professional tree contractor designated by the owner.

(b) Before issuance of any permit, the director shall inspect the work proposed and determine whether it may be completed without harm to the public safety or to any public or private property and that such work will benefit the public safety or the health and condition of the tree involved or eliminate a private nuisance to the owner. To accomplish these objectives, the director may condition the issuance of any permit upon the applicant's meeting reasonable requirements directed to the protection of public health, safety and/or the health of any tree. The permit shall specify the extent of the work authorized and any conditions to which it is subject.

(c) If the director determines that the work proposed requires the services of a licensed professional tree contractor, the contractor shall apply for and be issued the permit and, in addition to any other conditions as provided for in this chapter, shall provide a liability insurance policy from an insurance company licensed to do business in this state with a minimum coverage of \$250,000.00.

(d) When the work proposed involves the removal of a tree, the director shall determine whether the tree should be replaced at the same or another nearby location within the public right-of-way. The permittee shall be required as a condition of the permit to pay the cost of the purchase and planting of a replacement tree having a DBH of 1 1/2 inches, if the director determines the tree proposed for removal is alive and does not threaten public safety.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-4. City tree planting, maintenance and removal.

The director shall have the right and responsibility for tree planting, maintenance and removal in all parks and public right-of-way. Such activities shall be undertaken for the purpose of protecting public safety and providing for the symmetry and beauty of such public places.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-5. Spacing of shade trees.

(a) The director shall establish a plan for the future plantings of trees within parks and public rights-of-way which shall be implemented consistent with the terms of this article and expenditure limits established in the city's annual budget.

(b) No tree may be planted within parks and public rights-of-way which is not a species listed on a permitted species resolution adopted by the city council. Trees shall be planted so as to provide a minimum of 30 feet between trunks, except for trees of the oak species which shall be a minimum of 35 feet from another tree trunk. This minimum requirement may be reduced to a 20-foot separation for non-oak species in order to provide for one tree to be located adjacent to each tax parcel of land abutting a public right-of-way, but only when the director determines the wider separation requirement cannot be met.

(c) Trees shall be planted as near as practicable to the midpoint between the curb and the sidewalk within a public right-of-way or as outlined in the urban design plan. Where the distance between the curb and sidewalk is between three and five feet, only certain species as denoted in the permitted species resolution shall be planted. Where the

distance is less than three feet, no trees may be planted. Where there are no existing curbs and/or sidewalks, trees shall be planted in such location as provided in this section to allow for the future placement of such improvements.  
(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-6. Tree protection.

No person shall place within a public right-of-way any stone, brick, sand, concrete or other material which will in any way impeded the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location. No person shall break, injure, mutilate, kill or destroy any tree or set any fire within ten feet of any tree, or permit any fire or the heat thereof to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No person shall use any tree as an anchor except by special written permit from the director, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control any facilities which may interfere with the trimming or removal of any tree shall after notice thereof by the director promptly abate such interference in such a manner as shall permit the trimming or removal of such tree by the city.  
(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-7. Decorative displays.

Nothing contained in this article shall be deemed to prohibit the placement or construction of any decorative display by the city or other person upon approval by the council. Such displays shall be only in commemoration of a national holiday or some other civic purpose of general public interest.  
(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-8. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without a written permit from the director. Any person making such excavation or construction shall guard any tree within six feet thereof with a substantial frame box to be approved by the department of planning and development, and all building material or other debris shall be kept at least four feet from any tree.  
(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-9. Public utilities.

- (a) Public utilities shall be maintained so as to avoid any damage to trees, shrubs, bushes or vegetation. Damage resulting from utility installation, repair or disrepair shall be repaired; and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the public utility causing the damage.
- (b) The director shall grant permission to public utilities to trim and keep trimmed all trees within the street, alleys, parks and public places of the city, in such a manner as shall keep the overhead lines of the public utilities safe and accessible. The trimming shall be done in accordance with approved practices and under the general direction of

the department of building and safety. The permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. However, if an emergency requiring immediate maintenance work on the overhead lines of public utilities should occur, prior notice of commencing work under the permit shall not be required. The word "emergency" as used in this section shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight and which might cause damage to the overhead lines of the public utilities.

(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-10. Corner clearance.

All shrubs and bushes located on the triangle formed by the two right-of-way lines at the intersection of two streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines on any corner lot within the city shall not be permitted to grow to a height of more than 30 inches from the top of curb at street level, 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 on public and/or private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of ten feet above the roadway surface.

(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-11. Private tree clearance.

Owners of trees on private property which overhand any right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any public streetlamp or obstruct the view in any right-of-way intersection and so that there shall be a clear space of 15 feet above the surface of the street or right-of-way. Owners shall remove all dead, diseased or dangerous trees, or any broken or decayed limbs which threaten the safety of the public. Any owner of any property failing to maintain or remove trees in conformity with this section or section 86-12 shall be notified by the director, and such notice shall require maintenance or removal in conformity with this section within ten days after the date of such notice. Upon the expiration of such period, the director may cause the maintenance or removal to be done, and the cost thereof may be collected from the owner of the property as a single-lot assessment in accordance with the Charter of the city. The city shall have the right to maintain any tree on private property when it interferes with the proper spread of light along the street from a public streetlight, or interferes with visibility of any traffic control device or sign, such maintenance to be confined to the area immediately above the right-of-way.

(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-12. Diseases, infestations or private trees.

When the director shall discover that any tree growing on private property within the city is afflicted with any dangerous and communicable insect infestation or tree disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, describing the tree, its location and the nature of the infestation or tree disease

and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure the infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. The order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within ten days after service thereof, upon the owner, agent or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in the notice.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-13. Dutch elm disease.

Every elm tree, regardless of species or variety, infected with the fungus *ceratostomella ulmi*, popularly called Dutch elm disease, shall be destroyed; if on public property, within ten days after the director shall learn of the condition and, if on private property, within ten days after notice. No person shall possess, sell, give away or transport any elm tree afflicted with the fungus *ceratostomella ulmi* nor any wood from, or parts of, any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-14. Inspection of private trees.

The director and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, plant or fruit or any injury to the same, if done by the director or under his direction, in accordance with this chapter.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-15. Appeal.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the city requiring the treatment or destruction of any tree, he may within 48 hours make an appeal to the council by communication filed with the city clerk. The council shall hear such appeal at its next regular meeting, unless another time acceptable to the appellant shall be set, and shall determine the matter under such expert advice as may be necessary.

(Ord. No. C-192-98, § 1, 10-6-98)

#### Sec. 86-16. Failure to comply with order.

In case the owner, agent and occupant of the property should refuse to carry out the order of the director within the time directed, or in case of an appeal, within ten days after the council has affirmed such order, the director shall have carried out the pruning, spraying or destruction of the trees as deemed necessary by him, and he shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of the property shall fail to pay the bill within 60 days after it has been rendered, the director shall report the bill to the city manager for collection as a single-lot assessment against the property in

accordance with the Charter. The directory may, without serving the above notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems the same necessary on account of any infestation, disease or threat thereof.  
(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-17. Lawn extensions.

An owner or occupant abutting a public right-of-way shall maintain the area between the sidewalk and curb and may plant grass, plants and trees therein in conformity with this chapter. No person shall willfully injure or destroy any grass, plants or trees upon any such area or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such area which has been planted with vegetation.

(Ord. No. C-192-98, § 1, 10-6-98)

Sec. 86-18. Supplementary rules and regulations.

The director shall make such rules and regulations supplementary to this chapter and not in conflict herewith as he may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code shall continue in effect. No person shall fail to obey any rule or regulation effective under this chapter.

(Ord. No. C-192-98, § 1, 10-6-98)

Secs. 86-19--86-24. Reserved.