

City of Ionia – Tree Ordinance

Chapter 1024 Street Trees

- [1024.01](#) Definitions.
- [1024.02](#) Enforcement of chapter.
- [1024.03](#) Permits for tree planting, care and removal.
- [1024.04](#) Removal and replacement by City Manager.
- [1024.05](#) Spacing of shade trees.
- [1024.06](#) Protection of trees from damage.
- [1024.07](#) Excavations and driveways near trees.
- [1024.08](#) Covering surface near trees; sidewalks.
- [1024.09](#) Gas main leakage.
- [1024.10](#) Maintenance of private trees.
- [1024.11](#) Corner clearance.
- [1024.12](#) Pruning.
- [1024.13](#) Tree removal for utility line clearance.
- [1024.14](#) Companies engaged in trimming and pruning.
- [1024.15](#) Registration of all trees.
- [1024.16](#) Allocation of species.
- [1024.17](#) Tree protection during development.
- [1024.18](#) Dutch elm disease.

[1024.99](#) Penalty.

CROSS REFERENCES

Box elder trees, female, as nuisance - see M.C.L.A. §124.151

Cutting or destroying trees - see M.C.L.A. §§247.235, 247.241,
752.701 et seq.

Malicious destruction of trees - see M.C.L.A. §750.382

Street trees - see P. & Z. 1232.04

Prohibited trees - see P. & Z. 1286.03(h)

1024.01 DEFINITIONS.

As used in this chapter:

(a) "Caliper; Single Stem" means the thickness of trees measured in inches. A caliper measurement for trees shall be measured twelve inches above the soil line, or across the stump if the tree has been severed at less than twelve inches above the soil line.

(b) "City Manager" shall mean the City Manager or his or her authorized representative.

(c) "Department" shall mean the Department of Public Works of the City.

(d) "Diameter-at-breast-height (DBH)" means the tree trunk diameter measured in inches at a height 4.5 feet above the ground. If a tree forks into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the forks. Measurements shall be made by use of a circumference to diameter conversion tape.

(e) "Dripline" means the vertical line extending from the outermost edge of the tree canopy to the ground.

(f) "Hazardous tree" means a tree that is unsafe due to a structural defect and constitutes a threat of injury to persons or damage to property.

(g) "Park" shall include all public parks having individual names, and all areas whether or not owned by the City, or to which the public has access as a park.

(h) "Prohibited species" shall mean any tree of poplar (*Populus Sp.*), willow (*Salix Sp.*), box elder (*Acer Negundo*), silver maple (*Acer Saccharium*), locust (*Robina Sp.*), tree of heaven (*Ailanthus Altissima*), catalpa (*Catalpa Sp.*), mulberry (*Morus Sp.*), American elm (*Ulmus Americana*) and Siberian elm (*Ulmus pumila*).

(i) "Pruning" means the cutting or removing any part of the branching structure of a tree in either the crown, trunk or root areas.

(j) "Public utility" shall mean any person owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right of way for the transmission of electricity, gas, telephone service or telegraph service.

(k) "Street" shall mean all the land lying between property lines on either side of all streets, highways and boulevards in the City.

(l) "Topping", also known as stubbing, dehorning or lopping, refers to cutting back of the leader stem or limbs into stubs larger than three inches in diameter within the tree's crown so as to remove the normal canopy and disfigure the tree.

(m) "Tree", unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.

(n) "1995 ANSI A300" means pruning standards set forth in the Standard Practices for Trees, Shrubs, and Other Woody Plant Maintenance.

(Ord. 362. Passed 3-1-94.)

1024.02 ENFORCEMENT OF CHAPTER.

The City Manager shall be charged with the duty of enforcing the provisions of this chapter. (Ord. 362. Passed 3-1-94.)

1024.03 PERMITS FOR TREE PLANTING, CARE AND REMOVAL.

The City Manager shall have control over all trees located within the street rights of way and parks in the City, and the planting, care and removal thereof, subject to the regulations contained in this chapter. The owner of land abutting on any street may, upon obtaining prior written permission of the City Manager, prune, spray, plant or remove trees in that part of the street abutting such owner's land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions covered.

(Ord. 362. Passed 3-1-94.)

1024.04 REMOVAL AND REPLACEMENT BY CITY MANAGER.

If, in the opinion of the City Manager, it is determined that any existing tree located on City property or in any street between the curb and sidewalk needs to be replaced by reason of death, disease, disfigurement or partial destruction, the City Manager shall remove such tree and replace it with a new tree. It is the intent of this chapter to have replaced every tree removed with a new tree of acceptable species. (Ord. 362. Passed 3-1-94.)

1024.05 SPACING OF SHADE TREES.

Future plantings of shade and ornamental trees in the streets and parks of the City will be done by the Department of Public Works in accordance with prescribed tree planting practices. No tree shall be planted nearer to the intersection of any streets than twenty-five feet from the corner of such intersection. No tree shall be planted on private property less than nine feet from the nearest outer line of the street nor less than four feet from the nearest edge of the sidewalk. City Council may, upon application of an adjoining property owner, grant permission to vary from the restrictions imposed by this section.

(Ord. 362. Passed 3-1-94.)

1024.06 PROTECTION OF TREES FROM DAMAGE.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within twenty-five 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 electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor except by special written permit from the City Manager, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of any tree, shall, after notice by the Department of Public Works, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the Department. The City Manager shall certify all City permits for construction, installation, altering, moving or razing of all buildings, utilities, sidewalks, sewers or other operations where trees or shrubs, or parts thereof, are involved. (Ord. 362. Passed 3-1-94.)

1024.07 EXCAVATIONS AND DRIVEWAYS NEAR TREES.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the City Manager. Any person making such excavation or construction shall guard any tree within six feet with a good substantial frame box to be approved by the Department, and all building material or other debris shall be kept at least four feet from any tree. (Ord. 362. Passed 3-1-94.)

1024.08 COVERING SURFACE NEAR TREES; SIDEWALKS.

No person shall place within the street right-of-way, any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location. In the case of sidewalks, every effort shall be made to place materials to inhibit the growth of root structures under the sidewalk area. (Ord. 362. Passed 3-1-94.)

1024.09 GAS MAIN LEAKAGE.

Gas pipes or mains within any public rights of way or on any public property shall be so maintained as to avoid any leakage. In the event a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within twenty-four hours. Any damage to shrubbery, trees or grass resulting from the escape of gas from a pipe or main 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 owner of the pipe or main causing the damage. (Ord. 362. Passed 3-1-94.)

1024.10 MAINTENANCE OF PRIVATE TREES.

Every owner of any tree on private property overhanging any street or right-of-way within the City shall trim the branches so that such 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 thirteen feet above the surface of the street or right of way. Owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right of way. (Ord. 362. Passed 3-1-94.)

1024.11 CORNER CLEARANCE.

No person shall place, erect, plant or maintain any sign, fence, wall, hedge, shrub, tree or other thing between the minimum building set-back line and the edge of the right of way of any highway, street or public way on a corner lot in such a location as will obscure the view of on-coming cross-traffic to the driver of any vehicle crossing or entering the

highway, street or public way from any highway, street or public way or from any semi-public or commercial driveway which shall be deemed to create a corner lot for the purposes of this chapter. For the purposes of this section, any sign, fence, wall, hedge, shrub, tree or other thing which prevents a clear view of on-coming cross traffic 500 feet in either direction to the driver of an automobile vehicle legally stopped with its front bumper even with the edge of the right of way of the highway, street or public way shall be deemed to "obscure the view". However, nothing in this section shall be construed to require the alteration of the natural grade of the land without due process of law even though such natural grade may result in an obscured view across a corner lot as defined herein.

(Ord. 362. Passed 3-1-94.)

1024.12 PRUNING.

All City trees marked by the City with numeric tags shall be trimmed and pruned in accordance with the 1995 ANSI A300 Standard. Such standard shall become a policy of the City and kept with the City Clerk at City Hall for public compliance. In no case shall trees be topped or otherwise improperly pruned by either the City or utility companies. Should such action occur, the person or company responsible shall replace the tree with two trees of a caliper no less than two inches. (Ord. 362. Passed 3-1-94.)

1024.13 TREE REMOVAL FOR UTILITY LINE CLEARANCE.

If a tree has become such a problem that it cannot be properly trimmed so as to provide clearance with utility lines, it may be removed, provided at least two trees are replanted with a caliper of at least two inches. All caliper measurements shall be taken in accordance with Section 1024.01. (Ord. 362. Passed 3-1-94.)

1024.14 COMPANIES ENGAGED IN TRIMMING AND PRUNING.

All companies engaged in trimming or pruning of trees within the City right of way or on City property shall be licensed and insured. Prior to engaging in any activity, proof of insurance and indemnification against the City for claims shall be provided to the City Clerk.

(Ord. 362. Passed 3-1-94.)

1024.15 REGISTRATION OF ALL TREES.

The City shall register all trees planted in the right of way or on City property. Such trees, when of sufficient size, shall be marked with a numeric tag identifying the tree, species and location. No tag shall be removed without the permission of the City. All

records shall be kept with the Department of Public Works for logging of all maintenance and work performed on the tree. If a tree must be removed, the tag number may be reassigned after notation in the master tree log of the City. (Ord. 362. Passed 3-1-94.)

1024.16 ALLOCATION OF SPECIES.

It shall be the policy of the City to not plant more than fifty percent of any specie of tree in any area of the City. In all cases the species shall be staggered to prevent loss of tree if infestation or other disease breaks out. A list of acceptable planting trees shall be kept at City Hall by the City Manager for planting in the rights of way. Non-acceptable trees shall not be planted in the right of way or on City property. If such trees are planted, the City shall remove such trees. (Ord. 362. Passed 3-1-94.)

1024.17 TREE PROTECTION DURING DEVELOPMENT.

During any type of development the following measures shall be utilized to protect any tree on site that is not designated for removal.

(a) Protective barriers, such as silt fences, bollards, roping or other such devices as approved by the Department of Public Works, will be placed around each tree at the drip line of the canopy of each tree to prevent any type of encroachment under the drip line, or six times the diameter at breast height (DBH), whichever is greater.

(b) Soil disturbance under the canopy of each tree will be limited to six inches removed or six inches added. Any soil added under the canopy of the tree must be a loamy soil mix to ensure that compaction is minimized.

(c) Trenching shall be no closer than six times the diameter at breast height (DBH) to the affected tree nor shall it disrupt more than thirty percent of the dripline root area.

(d) No other types of disturbance or construction shall be allowed under the dripline of any tree without prior approval by the Department.

(Ord. 362. Passed 3-1-94.)

1024.18 DUTCH ELM DISEASE.

(a) Definition; Declaration of Nuisance. All species and varieties of elm trees (trees of genus *elmus*) infected with the fungus known as Dutch elm disease (*certostomella Ulmi*), as determined by laboratory analysis by the Michigan Department of Agriculture, are hereby declared to be a public nuisance. All species and varieties of elm trees that are dead or substantially dead and all dead elm wood to which the bark is still attached, which, because of their condition, may serve as a breeding place for the European elm

bark beetle (*Scolytus multistriatus*), and the native elm bark beetle (*Hylurgopinus rufipes*), or any other carrier of said disease, are hereby declared to be public nuisances.

(b) **Abatement of Nuisance by Owner.** No owner of any lot or parcel of land in the City shall permit or maintain on any such lot or parcel of land any dead elm wood or elm tree which is a public nuisance, and it shall be the duty of the owner of such lot or parcel to promptly remove and burn any such elm tree or dead elm wood under the supervision and direction of the City Manager.

(c) **Inspections.** The City Manager is hereby authorized and empowered to enter upon any lot or parcel of land in the City at any reasonable hour for the purpose of inspecting any elm trees or dead elm wood situated thereon. The City Manager may remove such specimens from any such trees as are required for the purposes of laboratory analysis, or to determine whether such tree, because it is dead or substantially dead, may serve as a breeding place for any carrier of Dutch elm disease. No person shall take any action to prevent the City Manager from entering on any lot or parcel of land in the City for the purpose of such inspection or to interfere with the City Manager in the performance of any of his or her duties under this chapter.

(d) **Notice to Abate; Failure to Comply.** If, as a result of a laboratory analysis of specimens removed from any elm tree by the City Manager, it is determined that such tree is a public nuisance as provided herein, or if the City Manager determines that any dead or substantially dead elm trees or dead elm wood is a public nuisance as provided herein, the City Manager shall serve or cause to be served upon the owner of record of the parcel of land on which said tree or dead elm wood is located, a written notice requiring such owner to comply with the provisions of this chapter. If any person upon whom such notice is served fails, neglects or refuses to remove and destroy by burning such elm tree or dead elm wood within ten days after service of such notice, the City Manager may proceed to remove and burn such tree or dead elm wood and assess the cost thereof against the owner of such lot or parcel of land, and the amount of such cost shall be paid by the owner to the City. Such notice shall be served in the manner prescribed in Chapter 210 of these Codified Ordinances.

(e) **Assessment of Cost.** If the City removes from any lot or parcel of land in the City any infected, dead or substantially dead elm tree or dead elm wood, which is a public nuisance as provided by this chapter, the assessment of the cost of the work done by the City against the owner of the lot or parcel of land involved shall be in addition to the penalties imposed herein for any violation or non-compliance with any provision of this chapter. The cost shall be assessed in the manner prescribed in Chapter 210 of these Codified Ordinances.

(f) **Abatement of Nuisance by City.** Any elm tree or dead elm wood on property owned by the City which is a public nuisance as defined in this chapter shall be properly

removed and burned under the supervision of the City Manager at the expense of the City.

(Ord. 362. Passed 3-1-94.)

1024.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of these Codified Ordinances for the general Code penalty if no specific penalty is provided.)

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