

Village of Milford – Tree Ordinance

ARTICLE II. TREES

Sec. 86-31. 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:

Large trees means those trees obtaining a height of 40 feet or more.

Medium trees means those trees obtaining a height of 30 feet to 40 feet.

Park trees means those trees, shrubs, bushes and all other woody vegetation in public parks, on public property, and on all areas owned by the village or to which the public has free access as a park.

Small trees means those trees obtaining a height of 20 feet to 30 feet.

Street trees means those trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or rights-of-way within the village.

(Ord. No. 224, § 1, 11-15-93)

Cross references: Definitions generally, § 1-2.

Sec. 86-32. Village tree board.

(a) *Created; composition.* There is hereby created and established a village tree board for the village which shall consist of three members, two citizens appointed by the village president with the approval of the village council, and the village superintendent of public services.

(b) *Term of office.* Members of the village tree board shall serve until their successor has been appointed.

(c) *Compensation.* Members of the village tree board shall serve without compensation.

(d) *Duties and responsibilities.* It shall be the responsibility of the village tree board to study, investigate, counsel, develop, update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and park trees. Such plan will be presented annually to the village council and, upon its acceptance and approval, shall constitute the official comprehensive tree plan of the village. The board, when requested by the village council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

(e) *Operation.* The village tree board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members of the board shall be a quorum for the transaction of business.

(Ord. No. 224, §§ 2--6, 11-15-93)

Sec. 86-33. Street trees--Species to be planted.

The species set forth in this section shall constitute the official street tree species for the village. No species other than those included in this section may be planted as street trees without written permission of the village tree board.

(1) *Large trees* (40 to 75 feet):

Shademaster honeylocust (*gleditsia shademaster*).

Skyline honeylocust (*gleditsia skyline*).

Sugar maple (*acer saccharum*).

Varieties: Green mountain legacy.

White ash (*fraxinus americana*).

Varieties:

Autumn Applause.

Autumn purple.

Rosehill.

Patmore.

Green ash (*fraxinus pennsylvanica*).

Varieties:

Marshall's seedless.

Summit.

Blue.

American liberty elm (*ulmus americana liberty*).

Tulip tree (*liriodendron tulipifera*).

(2) *Medium trees* (30 to 40 feet):

Red maple (*acer rubrum*).

Varieties:

Autumn blaze.

October glory.

Red sunset.

Red oak (*quercus rubra*).

Malden hair tree (*ginkgo biloba*), male only.

(3) *Small trees* (20 to 30 feet):

Pyrus calleryana.

Varieties:

Aristocrat pear.

Bradford pear.

Cleveland select.

Redspire pear.

Linden (*tilia americana*).

Varieties:

Redmond linden.

Glenleven linden.

Greenspire linden.

(Ord. No. 224, § 7, 11-15-93)

Sec. 86-34. Same--Spacing and distance requirements.

- (a) *Spacing.* The spacing of street trees will be in accordance with the three species size classes listed in section 86-33, and no trees may be planted closer together than the following: Small trees, 20 feet; medium trees, 30 feet; large trees, 40 feet; except as approved in writing by the village tree board.
- (b) *Distance from curb and sidewalk.* The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 86-33, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, three feet; medium trees, three feet; large trees, four feet.
- (c) *Distance from street corners and fire hydrants.* No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet to any fire hydrant. (Ord. No. 224, §§ 8--10, 11-15-93)

Sec. 86-35. Same--Protection of utilities.

No street trees other than those species listed as small trees in section 86-33 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. In all cases Miss Dig shall be called at least 24 hours prior to planting to identify underground utilities at point of excavation. (Ord. No. 224, § 11(A), 11-15-93)

Sec. 86-36. Prohibited planting.

No person shall plant within the village any poplar, box elder, basswood, willow, silver maple, common catalpa, horse-chestnut, Chinese elm tree or tree of heaven without first obtaining the written approval of the village tree board. (Ord. No. 224, § 11(B), 11-15-93)

Sec. 86-37. Trees on private property.

- (a) No person shall plant any tree on private property within the village unless the distance from the center of the trunk of such tree to the nearest street right-of-way line measures six feet or more.
- (b) No person shall plant on private property within the village any poplar, box elder, willow, silver maple, common catalpa, horse-chestnut, Chinese elm tree or tree of heaven without first obtaining the written approval of the village tree board.
- (c) Trees should not be planted over or near underground utilities, or under or near overhead utilities. The village is not responsible for damage or removal of trees on private property during maintenance or reconstruction of village utilities when plantings are in these vulnerable locations near existing utilities. (Ord. No. 224, § 12, 11-15-93)

Sec. 86-38. Care of street trees and park trees by village.

The village shall have the right to plant, prune, maintain and remove street trees, park trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and public grounds, as may be necessary to ensure public safety or

to preserve or enhance the symmetry and beauty of such public grounds. In such areas, the village tree board may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, cable lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section shall not prohibit the planting of street trees by adjacent property owners provided that the selection and location of such trees is in accordance with sections 86-31 through 86-37.

(Ord. No. 224, § 13, 11-15-93)

Sec. 86-39. Topping of trees.

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the village tree board. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 the provisions of this section by a determination of the village tree board.

(Ord. No. 224, § 14, 11-15-93)

Sec. 86-40. Vision clearance; pruning, removal of dead trees.

Every owner of any tree overhanging any street right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign. Removal shall be done by such owner or occupants at their own expense within ten days after the date of mailing of notice thereof. In the event of failure of owners or occupants to comply with these provisions, the village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax. In addition, the village may elect to recover such amount through court action.

(Ord. No. 224, § 15, 11-15-93)

Sec. 86-41. Female box elder trees.

Any female box elder tree which is or could be the breeding place for box elder bugs (*leptocoris trivittas*) is hereby declared to be a public nuisance and it shall be unlawful for any person to maintain such tree on his property after notification to so remove as provided in this section. Upon receipt of a written complaint, the village tree board shall send notice by first class mail to the owner of the private property as appears from the assessment records, with a copy of such notice sent by first class mail to the occupant. Removal shall be done by such owner or occupant at his own expense within 60 days

after the date of mailing of notice. In the event of failure of owners or occupants to comply with such provisions, the village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. After service of such notice, the owner, agent, or occupant of such property shall also be subject to the provisions of section 86-47. Any such trees located on public lands within the limits of the village shall likewise be removed upon the receipt of such written complaint.
(Ord. No. 224, § 16, 11-15-93)

Sec. 86-42. Removal of stumps.

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
(Ord. No. 224, § 17, 11-15-93)

Sec. 86-43. Arborist's license and bond.

It shall be unlawful for any person to engage in the business or occupation of pruning, treating or removing street trees or park trees within the village without first applying for and procuring a permit. The permit fee shall be set by village council resolution and paid in advance; provided, however, that no permit shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before such permit shall be issued, each applicant shall first file evidence with the village clerk of possession of liability insurance in the minimum amounts of \$500,000.00 for bodily injury and \$500,000.00 for property damages, indemnifying the village or any person injured or damaged from the pursuit of such endeavors as described in this section. After receipt of the required permit fee and acceptable insurance information, the permit shall be issued by the village clerk.
(Ord. No. 224, § 20, 11-15-93)

Sec. 86-44. Interference with village tree board.

It shall be unlawful for any person to prevent, delay, or interfere with the village tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this article.
(Ord. No. 224, § 18, 11-15-93)

Sec. 86-45. Damage to street trees or park trees; recovery of value.

- (a) Whenever the village tree board shall determine that any street tree or park tree has been injured, damaged or broken in a manner which will cause immediate or future removal of the tree and that such removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree and the board shall have knowledge of the person causing such damage, then the board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.
- (b) Whenever the village tree board shall determine that any street tree or park tree has been severed, destroyed or removed, and that such severing, destruction or removal is

deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the board shall have knowledge of the person causing such damage, then the board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.

(c) This section shall not be construed in such a way that the value received by the village shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the village tree board, such replacement tree to be not less than three inches in diameter measured at the height of six inches above the ground. The village tree board shall not be restricted in its choice as to the replacement planting site.

(d) It shall be the duty of the village police department, having knowledge of any such damage or destruction to street trees or park trees and having knowledge of the person causing such damage, to immediately report this information to the village tree board.

(e) It shall be the duty of the village tree board to notify the village manager of any damage to street trees or park trees for which recovery could be sought under the provisions of the section.

(Ord. No. 224, § 19, 11-15-93)

Sec. 86-46. Appeals.

Any person may appeal from any ruling or order of the village tree board to the village manager, who shall hear the matter and affirm, reverse or amend the decision of the village tree board.

(Ord. No. 224, § 21, 11-15-93)

Sec. 86-47. Penalty for violation of article.

Any person violating this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 224, § 22, 11-15-93)

Secs. 86-48--86-75. Reserved.