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ARBOR BOARD AGENDA

MONDAY, MAY 15, 2023 AT 8:00 A.M.

LOWELL CITY HALL

**DOWNSTAIRS FLAT RIVER CONFERENCE ROOM
(NOTE TIME/CHANGE OF LOCATION)**

1. CALL TO ORDER; ROLL CALL
2. APPROVAL OF THE AGENDA
3. APPROVAL OF MINUTES OF APRIL 24, 2023 MEETING
4. REVIEW OF FINANCIAL REPORTS
5. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA
6. OLD BUSINESS
 - a. Tree Ordinance Review
7. NEW BUSINESS
8. BOARDMEMBER COMMENTS
9. ADJOURNMENT

ARBOR BOARD OF LOWELL
MONDAY, APRIL 24, 2023
7:00 AM
Lowell Light & Power Meeting Room

1. CALL TO ORDER: ROLL CALL

The meeting was called to order at 7:17 am at the Lowell Light & Power meeting room and the roll was called.

Present: Jim Salzwedel, Perry Beachum, Chair Reagan

Absent: Lean Groves, Mathew Silverman

Also Present: Andy Moore, Williams & Works, Maleah Rakestraw, Williams & Works, Ryan Teachworth, LLP and Dan Czarnecki

2. APPROVAL OF AGENDA

IT WAS MOVED BY SALZWEDEL, and seconded by BEACHUM to approve the agenda as written.

YES: 3 NO: 0 ABSENT: 2 MOTION CARRIED.

3. APPROVAL OF THE MINUTES

IT WAS MOVED BY SALZWEDEL, and seconded by BEACHUM to approve the regular minutes of the October 10, 2022 meeting.

YES: 3 NO: 0 ABSENT: 2 MOTION CARRIED

4. REVIEW FINANCIAL REPORTS

IT WAS MOVED BY SALZWEDEL, and seconded by BEACHUM to approve the financial reports as presented.

YES: 3 NO: 0 ABSENT: 2 MOTION CARRIED

5. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA

None

6. OLD BUSINESS

None

7. NEW BUSINESS

a. Election of Chair

Discussion with Jim Reagan on his continuation of being board chairperson.

IT WAS MOVED BY SALZWEDEL, and seconded by BEACHUM to approve the agenda as written.

YES: 3 NO: 0 ABSENT: 2 MOTION CARRIED.

b. Approve 2023 Meeting Dates

Board reviewed dates presented, with change to May meeting to May 15th and starting time to 8am, place to be determined. Meeting dates: May 15, September 11, October 9, and will add additional days as needed.

c. Tree Ordinance Update

Discussed history of establishment of Arbor Board and current tree ordinance and the need to update the ordinance. Andy Moore and Maleah Rakestraw from Williams & Works brought forward a review of the existing ordinance with comparisons to the Village of Spring Lake tree ordinance, City of Grand Rapids ordinances, and other community's ordinance language. Went over handout.

Procedure for tree review. Several board members would like to see help for City Manager for tree decisions by including two persons to assist with review of trees being requested for removal/trimming. Board recommended DPW Director and LLP District Manager could assist with the review in the field.

Trimming vs. Removal. Some members suggested to be careful of any type of trimming of trees that could cause them to become ugly looking. However, some feel a balance needs to be made as many people have different opinions on the looks of a tree. Should try to address root pruning, look into possible construction rules for trees. Add language to utilize Arbor Board for advisory towards trimming/removal.

Replacement Standards. Provide direction for replacement of removed trees. For existing trees replacement need consideration on size, condition, location, number of trees in the proximity of each other, etc. Went over GR standards. Consider woodlands exceptions. For removal look to specifying stump removal be included as part of complete removal.

Replacement Fee. Went over different community fees. To help set fees need to consider standards on tree replacement type, size, location, and look at costs for different species.

Types/Location of New Trees. Put together a list of acceptable trees to be planted in ROW, near power lines, on city properties. Look at Consumers Energy tree list. "Right tree in Right Place". LLP will provide their handout info on type of trees they prefer in vicinity of their lines. Consider language for project planning/review by Arbor Board of trees to be removed and possible replacements.

Replacement Procedures. Look at permit policy/actions. Some board members would like to see the new ordinance make it clear the ordinance is for consideration of public trees and is not setting standards/regulations for tree work on private property. Add language to give notice to adjacent property owners PRIOR to any public ROW tree removal or trimming.

Responsibilities of tree removal companies and private utility companies.

Protection of existing Walks/Drives.

W&W will review language further and look for info on what other communities do about private property issues with trees.

W&W will have more info for the May 15th meeting and will provide in advance so board can review.

- d. Comprehensive Tree Plan
Board discussed how the new ordinance might change the comprehensive tree plan. Would like to wait until new ordinance is completed to then review tree plan. Tabling item until fall meetings.
- e. Consider Business Selection for Arbor Day Tree
Still working to plant tree at Keiser's.
- f. Arbor Day April 28th Activities
Lowell Showboat Garden Club holding tree give away for Arbor Day activity at Englehardt Library on Saturday April 29th.

8. BOARD MEMBER COMMENTS

Salzwedel concerned time of meetings might make it difficult for some members to attend. Said he will check with Mayor on how to bring Arbor Board to full membership.

9. ADJOURNMENT

The meeting was adjourned at 8:55 am.

James Reagan, Chair

Susan Ullery, Recording Secretary



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11-May-2023

TREE FUND BEGINNING BALANCE JULY 2022
\$5,877.75

Total Expenditures \$0.00

Ending Balance \$5,877.75

Chapter 23- VEGETATION

ARTICLE I.- IN GENERAL

Sec. 23-91.- Intent.

It is the intent of this article to promote and protect the public health, safety and welfare by ~~providing for the regulation of~~ the planting, maintenance and removal of trees, shrubs and other woody plants within the city to maintain a healthy tree canopy, encourage biodiversity, reduce impacts of stormwater and urban heat island effects, provide habitat for wildlife, and enhance community aesthetics. It is the further intent of this article to cause the replacement of each approved tree species that is removed from public street right-of-ways, city parks and other city-owned property. Such replacements shall be of an approved species as designated by the city arbor board and at locations as shall be determined by the Department of Public Works (city manager-DPW) director, or his/her/their designee; thereby ensuring the variety and longevity of the city tree inventory.

Sec. 23-2.- Definitions.

For purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) Boulevard: A landscaped median in the center of a street, typically lined with trees.
- (b) City Arbor Board (Arbor Board): An advisory board established by the City of Lowell who is tasked with the development and annual update of the city's tree plan, documenting the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in public parks, along public streets and roads, within public right-of-ways and within other public areas. See ARTICLE II. - CITY ARBOR BOARD.
- (c) Caliper: Thickness or diameter of the trunk of a tree taken at a standard height, used in specifying nursery stock. Trees under four (4) inch caliper are measured at six (6) inches above the soil line; trees over four (4) inch caliper are measured at twelve (12) inches above the soil line.
- (d) Certified arborist: A professional arborist certified by the International Society of Arboriculture (ISA).
- (e) Critical root zone (CRZ): Area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located.
- (f) Drip line: The imaginary vertical line that extends downward from the outermost tips of tree branches to the ground.
- (g) Public property: Land owned by the City, County, State, or federal Government owned land, that includes but is not limited to rights-of-way, easements, parks, trails, cemeteries, or government facilities.
- (h) Root collar: Transition zone from trunk to roots where the trunk expands into the buttress or structural roots. Also known as root crown, root flare, and trunk flare.

- (i) Department of Public Works (DPW): City of Lowell Department of Public Works
- (j) Diameter Breast Height (DBH): Thickness or diameter of the trunk of a tree taken at four and one-half feet above the existing grade, used in measuring established trees. DBH is measured in inches.
- (k) Lowell Light and Power (LLP): City of Lowell owned and operated electric utility, governed by an appointed board.
- (l) Parkway: A landscaped edge of a street, typically lined with trees. Parkways are often situated between paved areas along the street edge, like sidewalks and the back of curb.
- (m) Private Property: Land owned by non-governmental entities, that includes but is not limited to residences, businesses, ~~schools~~, or churches.
- (n) Pollarding: Specialty pruning technique in which a tree with a large-maturing form is kept relatively short. Starting on a young tree, internodal cuts are made at a chosen height, resulting in the development of callus knobs at the cut height. This requires regular (usually annual) removal of the sprouts arising from the cuts. Pollarding is not topping, but is not considered an appropriate pruning technique for all trees. (needs discussion)
- (o) Topping: The severe pruning of limbs to such a degree so as to remove the normal canopy and disfigure the tree.
- (p) Tree, dead or dying: A tree that is diseased or damaged beyond repair, has no live tissue or is determined to have less than 10% live tissue by a certified arborist.
- (q) Tree fund: A budget account to be used for activities associated with public tree inventory, protection, maintenance and planting. Payments to the tree fund may be made in-lieu of tree replacement, as described in ARTICLE IV. – TREES.
- (r) Tree, healthy: A tree showing good structural integrity, free of serious diseases, and maintaining normal appearance appropriate to the species including size of tree and leaves, normal coloration, and displaying normal vigor and growth characteristics.
- (s) Tree, limited use: See Sec. 23-70.
- (t) Tree, powerline friendly: Woody perennial having one dominant trunk and an estimated mature height equal to or less than twenty-five (25) feet, that when fully grown, will have minimal conflict with overhead power utilities while allowing clear passage of people, animals and/or vehicles below its crown.
- (u) Tree, prohibited: See Sec. 23-70.
- (v) Tree protection plan (TPP): A plan which outlines specific measures to protect trees during construction or other site disturbance. The TPP also addresses requirements for offsetting or mitigating impacts to protected trees, such as transplanting or planting replacement trees.
- (w) Tree, street: Woody perennial with good tolerance of urban conditions, having one dominant trunk and an estimated mature height greater twenty-five (25) feet, that when

Commented [MA1]: needs discussion.. if they dont have someone who knows how to do this

fully grown, will provide shade and/or shelter for the land beneath while allowing clear passage of people, animals and/or vehicles below its crown.

- (x) Tree, unsafe condition: A tree that, by reason of its nature, inappropriate location, or lifecycle, is injurious to public utilities, blocks clear vision of traffic control devices, damages or impedes zones of travel, or is dead or diseased.

Secs. 23-3. – 23.22.- Reserved.

ARTICLE ~~III~~^{IV}.- CITY ARBOR BOARD

Sec. 23-~~6623~~⁶⁷²³.- Creation.

There is hereby created a board of the city to be known as the city arbor board to accomplish the public purposes and who shall have such powers, duties and responsibilities as hereinafter set forth.

Sec. 23-~~6724~~⁶⁸²⁴.- Duties and responsibilities.

- (a) The city arbor board shall study, investigate, counsel, and develop, annually update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in public parks, along public streets and roads, within public right-of-ways and within other public areas. Such plan as annually updated shall be for the immediately succeeding fiscal year of the city and shall be presented to the city council in April of each year. Upon review, acceptance and approval by the city council it shall constitute the official comprehensive tree plan of the city. In addition, the city arbor board shall, at the request of the city council, consider, investigate, make findings, report and make recommendations to the city council on any matter or question within the scope of its work as set forth in this section.

- (b) To ensure the intent of this ordinance and the city's tree plan are being followed, the city arbor board shall review and make recommendations provide counsel on projects that may impact the care, preservation, pruning, placement, removal or disposition of trees and shrubs in public spaces. This may include, but is not limited to, the following project types:

- (1) Public road construction/reconstruction and/or streetscape enhancements;
- (2) Utility placement and/or removal that may conflict with existing trees or inhibit the placement of future trees;
- (3) Park, cemetery, or public facility site construction/reconstruction;
- (4) Projects that may remove five or more trees measuring 6 inch DBH or greater on public property.

- ~~(b)(c)~~ City arbor board review is not required for the removal of hazardous and diseased trees which pose a threat to public health, safety, and welfare.

Sec. 23-~~6825~~⁶⁹²⁵.- Composition.

The city arbor board shall consist of five (5) voting members, all of whom shall be registered electors of the city. One (1) voting member shall be a currently serving city councilperson and

Commented [RM2]: This could also include private development projects that require/propose trees to be planted in adjacent public property (like parks, easements, ROW, etc.) - This may add time to project review and approval unless efforts were coordinated with the planning commission.

one (1) voting member shall be a current member of the city board of light and power. All members shall be approved by the mayor and confirmed by a majority of the members then serving on the city council, provided, however, the councilperson to be appointed shall not vote on the confirmation of his or her appointment. In addition, the city may appoint not more than ~~be~~ one (1) ex-officio nonvoting member who shall be a certified tree arborist, landscape architect, horticulturalist, or other similar professional who need not be a registered elector of the city, who shall be identified by the city manager and who shall agree to serve in such capacity.

Commented [RM3]: Change to DPW director?

Sec. 23-~~6926~~.- Term of office.

The term of office for city arbor board voting members, other than the member also serving on the city council and the member also serving on the city board of light and power, shall be for three (3) years, provided, that for the first members appointed, one (1) member shall be appointed for a three-year term, one (1) member shall be appointed for a two-year term, and one (1) member shall be appointed for a one-year term. Except for the initial appointment of such board members where a member's term shall commence upon appointment, all terms of such members shall commence on July 1. If such board member's term has expired, and a successor has not been appointed, such board member shall continue to serve until a successor is appointed. The terms of the board member appointed as a currently serving city councilperson and the board member appointed as a current member of the city board of light and power shall begin on the date of appointment and end on date such member is no longer a city councilperson or member of the city board of light and power. Such board members shall not continue to serve after their term has ended even if a successor has not been appointed.

Sec. 23-~~7027~~.- Vacancies.

Vacancies on the city arbor board shall be filled in the same manner as regular appointments for the remainder of the unexpired term of the appointment vacated.

Sec. 23-~~7128~~.- Removal from office.

A board member may be removed from the city arbor board by the city council at any time for cause as determined solely by the city council upon receiving a recommendation for removal by the city arbor board.

Sec. 23-~~7229~~.- Compensation.

Members of the city arbor board shall receive no compensation, but shall be entitled to their actual and necessary reasonable expenses incurred in the performance of their duties as approved by the city council.

Sec. 23-~~7330~~.- Rules of procedure.

The city arbor board may adopt such rules of procedure for carrying out its powers, duties and responsibilities that are not inconsistent with the provisions of this article.

Sec. 23-~~7431~~.- Meetings.

All meetings of the city arbor board shall, except as otherwise permitted by law, be open to the public and held in compliance with the Michigan Open Meetings Act, Act 267 of the Public Acts of Michigan of 1976, as amended (MCL 15.261 et seq.). Meetings of the city arbor board may be called by the board chairperson or by any two (2) of its board members.

Sec. 23-~~7532~~. - Quorum.

A majority of the voting board members then serving on the city arbor board shall constitute a quorum for the conducting of the business of the board.

Sec. 23-~~7633~~. - Chairperson.

The members of the city arbor board shall annually elect one (1) of its members as chairperson. The chairperson shall be responsible for conducting all meetings of the board. Another member of the board, selected by board members present at the meeting, may serve as temporary chairperson for a meeting at which the chairperson is absent.

Sec. 23-~~7734~~. - Execution of contracts and commitment of funds.

- (a) The city arbor board may advise and make recommendations to the city council regarding the entering into contracts or the expenditure of city funds in connection with its duties and responsibilities, but may not itself enter into contracts or commit city funds.
- (b) A tree fund shall be established and reserved for the replacement of and/or planting of new trees on public properties. The city arbor board should be provided status updates of the tree fund balance during each regular meeting to inform recommended expenditures to the city council.

Secs. 23-~~7835~~—23-~~9045~~. - Reserved.

ARTICLE III.- NOXIOUS SHRUBS, WEEDS AND GRASS

Sec. 23-46. - Property conditions declared a public nuisance.

The following conditions are declared to be a public nuisance:

- (1) Trees, shrubs, bushes, weeds or other plant growth obstructing a public sidewalk or pedestrian walkway, a road or street right-of-way or other public way;
- (2) Weeds, grasses or other plant growth that endanger public property or the health or safety of the public, or interfere with, obstruct or render dangerous any public way including noxious weeds, as defined in Section 2 of Act 359 of the Public Acts of Michigan of 1941, as amended, including ragweed, poison ivy, poison sumac, poison oak and Canada thistle;
- (3) Weeds, grasses and undergrowth higher than twelve (12) inches; and
- (4) Dead trees deemed hazardous to the public or to an adjacent property.

Sec. 23-47. - Nuisances prohibited.

- (a) For all residentially zoned properties and all other properties on which residential uses are located regardless to the zone district, a property owner, tenant or other responsible party shall maintain such property, occupied or vacant, improved or unimproved, free of the nuisances described in section 23-46 in the following areas:
 - (1) On areas of developed lots, parcels and units where a traditional lawn has been established;

- (2) The front twenty-five (25) feet measured from the improved right-of-way of residentially zoned lots or parcels, whether or not vacant, or lots or parcels with residential uses in which more than eighty-five (85) percent of the lot or parcel has been developed (for corner lots and parcels, the front twenty-five (25) feet shall be measured from both improved public right-of-ways); and
 - (3) All cleared and graded areas of lots and parcels where lawns or other landscaped improvements are intended to be planted, but have not yet been established.
- (b) For all business and industrial zoned property and all other properties on which there are commercial, office, business and industrial uses regardless of the zone district, a property owner, tenant or other responsible party shall maintain all landscaped areas of the property free of the nuisances described in section 23-46.
- (c) This article is not intended to prohibit or discourage the practice of developing natural groundcover areas, prairie yards, or gardens and lawns using accepted xerophytic plantings and techniques. It is intended to abate and eliminate situations where property is in a state of actual neglect and shows no distinct plan or pattern of upkeep or maintenance.

Sec. 23-48.- Responsibility for maintenance of adjacent properties.

For every property that is to be maintained pursuant to subsections 23-47(a) and (b), shall also include the same maintenance by a property owner, tenant or other responsible party of such property in the area between that property's front property line and an improved public road or street, and in the case of private roads and streets, between the improved private road or street and the front property line.

Sec. 23-49.- Notice of violation.

- (a) In the event that a property owner fails to comply or cause compliance with this article, the city shall notify the property owner of the violation and direct that the nuisance be abated. Such notice shall be in writing, addressed to the property owner as shown on the latest ad valorem property tax assessment roll, and shall inform the property owner:
- (1) Of the nature of the violation;
 - (2) Of the time in which the violation must be abated, which shall not be less than five (5) days;
 - (3) That the city may act to abate any violation that is not abated within the time prescribed;
 - (4) That if the city abates the nuisance, the cost of such abatement plus an administrative fee as prescribed in section 23-51 shall be assessed as a lien against the property until paid; and
 - (5) That failure of the property owner to abate or cause the abatement of the nuisance may result in civil enforcement or criminal prosecution and/or abatement of the nuisance by the city.

- (b) The failure to receive such notice shall not be a defense against the city's right to collect the costs of nuisance abatement including administrative fees or the initiation of civil enforcement or criminal prosecution of the violation.

Sec. 23-50.- Abatement.

Upon failure, neglect or refusal of a property owner to comply or cause compliance with the provisions of this article, the city or its authorized contractor or designee is authorized to enter upon the property of the property owner to abate the nuisance.

Sec. 23-51.- Administrative fee.

An administrative fee reflecting the city's cost of enforcing this article and as established by resolution of the city council shall be added to the actual costs charged to a property owner for abating a nuisance under this article.

Sec. 23-52.- Charges a lien on property.

Unpaid charges and administrative fees related to the failure to abate a nuisance to a property shall be a lien on such property and, if delinquent, may be collected in the same manner as the collection of delinquent ad valorem property taxes.

Secs. 23-53—23-65.- Reserved.

ARTICLE IV.- TREES

Sec. 23-~~9266~~.- Permits for tree planting, care and removal.

The ~~city manager~~Department of Public Works (DPW) director and Lowell Light and Power (LLP) distribution manager, or his/her designee, shall have control of the planting, removal and care of trees, shrubs and other woody plants in the public street right-of-ways, city parks and other city-owned property subject to the provisions of this article. The owner of land abutting a public street right-of-way may, upon obtaining a written permit from the city ~~manager or his/her~~ designee, prune, plant, remove, spray and otherwise maintain trees, shrubs and other woody plants in that part of the street right-of-way abutting such owners land not used for pedestrian or vehicular travel. No person shall otherwise prune, plant, remove, spray or otherwise maintain trees, shrubs and other woody plants in any public street right-of-way, city park or other city-owned property. Each permit shall specify the extent and conditions of authorization.

Sec. 23-~~10267~~.- Road commission jurisdiction.

For those public street right-of-ways in the city which the Kent County road commission has jurisdiction or maintenance responsibility, the tree policy of the road commission, rather than the provisions of this article shall apply.

Sec. 23-~~10068~~.- Persons engaged in trimming, pruning and removal.

All persons, firms and companies providing trimming, pruning and removal services of trees, shrubs and woody plants within the public street right-of-ways or in city parks or other city-owned property shall be, if required, currently licensed by the appropriate state authority, if any, and shall have in effect a general liability policy of insurance which names the city as an additional or co-insured. A copy of the policy or a certificate of insurance shall be filed with the city clerk before beginning work within the city.

(a) Responsibility of persons engaged in trimming, pruning and removal.

- (1) Following trimming, pruning and removal, all debris and brush shall be cleared from the site and properly disposed. Wood 4" in diameter and larger shall be left for property owner, if so requested, or removed from the site entirely.
- (2) When a tree is removed from City property or the property of a City resident or business, the persons completing said tree removal shall remove the tree stump and restore the lawn or surrounding groundcover, including any backfilling of clean topsoil necessary for future viable plant growth.
- (3) If a tree is to be replaced in the same or near approximate location as the removed tree, full stump removal will be required. If no tree is planned for the location of the removed tree, stump grinding to a depth of 6" below grade will be required, pending DPW director approval.

Sec. 23-69.- Community feedback regarding trees on public property

- (a) Persons with concern or comment regarding the removal or placement of trees on public property may submit a completed tree feedback form to the city. This permit will be reviewed by the DPW director and shared with the city arbor board at their next regularly scheduled meeting.

Sec. 23-70.- Planting trees on public property

~~Sec. 23-28. City manager eConsent required for planting trees.~~

- (a) Whenever any person desires to plant any shade or ornamental trees in any of the public highways, streets and avenues of the city, ~~he~~ they shall make submit an application to the ~~city manager~~ DPW director in writing, specifying the number and kind ~~he~~ they desires to plant and the highway, street and avenue where ~~he~~ they desires to plant the same. Whereupon the ~~city manager~~ DPW director shall determine by an order providing whether such person may plant any trees upon such highway, street or avenue without injury or detriment to the public interest.

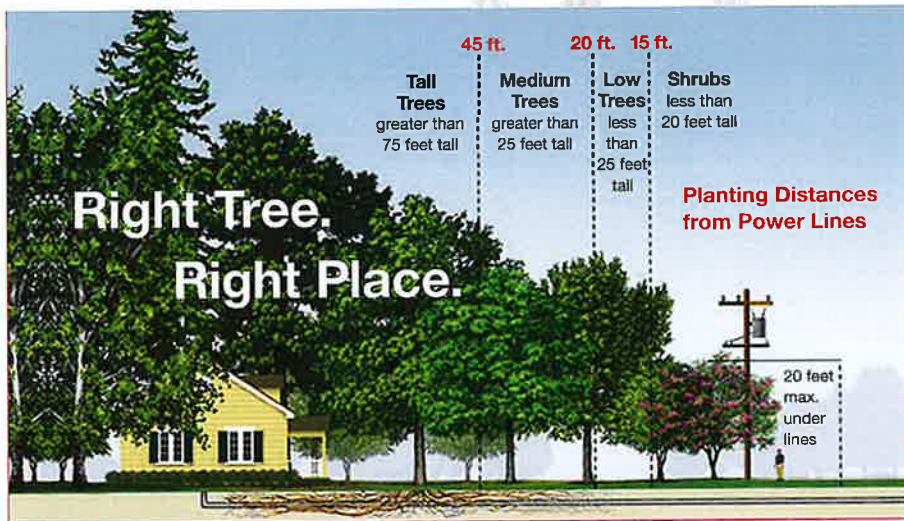
~~Sec. 23-96.- Clear vision clearance.~~

- (b) No trees, shrubs, woody plants, other plantings, fencing or other obstruction shall be located or maintained on a corner lot which will obstruct the view of the driver or operator of a vehicle within the public street right-of-way. Such unobstructed view area shall mean a triangular area formed by the private property lines along each public street right-of-way and a line connecting them at a point twenty-five (25) feet from the private property lines extended. Trees, shrubs, woody plants and other plantings may be located in such unobstructed view area provided they will not achieve a height at maturity greater than thirty (30) inches. In addition, no trees, shrubs, woody plants or other plantings shall be located or maintained in any front, side or rear yard of a lot which, in the opinion of the ~~DPW director, or their designee, city manager or his/her designee~~ will obstruct the view from vehicles entering or leaving the lot from driveways or adjacent private roadways.

Sec. 23-94. Planting and spacing of trees.

(c) The planting of trees, shrubs and other woody plants in public street right-of-ways, city parks and other city-owned property shall be authorized by the DPW director, or their designee, ~~the city manager or his/her designee~~ in accordance with prescribed planting practices, ~~including and their location and spacing shall be determined by the city manager or his/her designee.~~ The planting and spacing of city provided trees on private property shall be mutually approved by the property owner and the DPW director city manager or his/her their designee. Thirty (30) feet on-center planting should be used as a minimum spacing for street trees, when feasible. For newly planted trees, spacing from the on-center measurement of the tree to the following items is required:

- (1) 15 feet from fire hydrants, utility junction boxes, and utility poles
- (2) 10 feet from alleys, driveways, or other curb cuts
- (3) 10 feet from underground utility service lines and stormwater catch basins



Commented [RM4]: I would like to get this original graphic and update the nomenclature to avoid confusion with the parkway dimensional standards.

(a)(d) Protection of sidewalks and streets

- (1) Covering soil surface near trees; sidewalks. No person shall place within the public street right-of-ways any material which will impede or redirect the full and free passage of water, air or fertilizer or other plant food to the roots of any tree, shrub or other woody plant except for a sidewalk of authorized width and location. Where there are sidewalks within the public street right-of-way, every effort shall be made to place materials that will ~~inhibit prevent~~ the growth of root structures ~~under~~

~~the~~from impacting the sidewalk. This includes providing proper spacing between sidewalks and planting areas, providing adequate soil volumes for trees to thrive, and the use of root barriers near underground utilities and curbs, when necessary.

(2) Parkway and boulevard authorized widths. Trees planted in parkways and boulevards should be centered within the landscape area, when feasible. Parkway and boulevard widths shall adhere to the minimum dimensional standards described below to protect sidewalks, curbs, and roads from pavement due to root growth:

- i. Parkways or boulevards that will accommodate large trees with a mature canopy of thirty-six (36) feet wide or greater shall provide a minimum landscape area of eight (8) feet wide.
- ii. Parkways or boulevards that will accommodate medium trees with a mature canopy between thirty-five (35) feet and twenty-six (26) feet wide shall provide a minimum landscape area of six (6) feet wide.
- i. Parkways and boulevards that will accommodate small trees with a mature canopy of twenty-five (25) feet wide or less shall provide a minimum landscape area of four (4) feet wide.

~~iii.~~

~~(b)~~ Species of trees.

(e) It is the policy of the city that it will not plant more than fifty (50) percent of the trees in one (1) area of the city with one (1) single species of trees during a calendar year. It is recommended that the species of trees planted throughout the city be staggered to prevent the loss of inventory from disease or infestation. A list of prohibited, limited use, and recommended tree species can be found in the subsequent section. approved tree species compiled by the city arbor board shall be kept by the city clerk and shall be available to the general public upon request. Only sSpecies indicated on the recommended tree species such list shall be planted in the public street right-of-ways, city parks or other city-owned property or with funds made available from the designated city tree fund.

(1) Prohibited Trees. The following trees are not permitted in an effort to protect the health, safety, and welfare of the City. The species listed below have characteristics that make them poor fits for urban spaces, such as being prone to splitting; having wood that is brittle and breaks easily; roots that clog drains and sewers; have been identified as invasive species, or may be unusually susceptible to disease or pests.

<u>Prohibited Trees</u>	
<u>Common Name</u>	<u>Botanical Name</u>
<u>Norway Maple</u>	<u>Acer platanoides</u>
<u>Tree of Heaven</u>	<u>Ailanthus species</u>

<u>Russian Olive</u>	<u><i>Elaeagnus Angustifolia</i></u>
<u>Ash</u>	<u><i>Fraxinus species (without Emerald Ash Borer resistance)</i></u>
<u>Female Ginkgo</u>	<u><i>Ginkgo biloba</i></u>
<u>Honey Locust (with thorns)</u>	<u><i>Gleditsia triacanthos (with thorns)</i></u>
<u>Populus nigra var. italica</u>	<u><i>Lombardy Poplar</i></u>
<u>Mulberry</u>	<u><i>Morus species (non-native varieties)</i></u>
<u>Bradford Pear</u>	<u><i>Pyrus calleryana 'Bradford'</i></u>
<u>Black Locust</u>	<u><i>Robinia species</i></u>
<u>Willow Tree</u>	<u><i>Salix tree species (non-native varieties)</i></u>
<u>Elm</u>	<u><i>Ulmus (without Dutch Elm disease resistance or treatment)</i></u>
<u>Chinese Elm</u>	<u><i>Ulmus Parvifolia</i></u>

(2) Limited Use Trees. Trees listed under the Limited Use category are permitted in locations with open spaces, like parks or large greens, where there is limited contact with people spaces (walkways, picnic areas, etc.); vehicles, utilities, and structures.

<u>Limited Use Trees</u>	
<u>Common Name</u>	<u>Botanical Name</u>
<u>Box Elder</u>	<u><i>Acer negundo</i></u>
<u>Silver Maple</u>	<u><i>Acer Saccharinum</i></u>
<u>Catalpa</u>	<u><i>Catalpa speciosa</i></u>
<u>Black Walnut</u>	<u><i>Juglans Niara</i></u>
<u>Mulberry</u>	<u><i>Morus rubra</i></u>
<u>Eastern Cottonwood</u>	<u><i>Populus deltoids</i></u>
<u>Black Willow</u>	<u><i>Salix nigra</i></u>

(3) Recommended Trees. The following table includes suggested trees that meet USDA plant hardiness standards for the City of Lowell and have characteristics that make them more tolerant of urban conditions. This list is non-exhaustive, but is intended to provide a standard reference for pre-approved trees that may be considered for use on public property.

(4) Trees should be selected based on specific environmental conditions and space needs. Tree form (single trunk) should be specified for all species selected as street trees. Powerline friendly trees are illustrated in the table below. The mature height of selected powerline friendly trees should not conflict with the height of overhead utilities for which they will be placed nearby.

(5) A mixture of species to increase biodiversity and the use of native species is encouraged. Native species or cultivars in the recommended trees list are identified with an (N) at the end of the botanical name.

<u>Recommended Trees</u>		
<u>Tree Type</u>	<u>Common Name</u>	<u>Botanical Name</u>
<u>Street Trees</u>	<u>Freeman Maple</u>	<u><i>Acer x freemanii</i></u>
	<u>Red Maple</u>	<u><i>Acer rubrum (N)</i></u>
	<u>Sugar Maple</u>	<u><i>Acer saccharum (N)</i></u>
	<u>River Birch</u>	<u><i>Betula niara (N)</i></u>
	<u>European Hornbeam</u>	<u><i>Carpinus betulus</i></u>
	<u>American Hornbeam</u>	<u><i>Carpinus caroliniana (N)</i></u>
	<u>Hackberry</u>	<u><i>Celtis occidentalis (N)</i></u>
	<u>Fringe Tree</u>	<u><i>Chionanthus virginicus (N)</i></u>
	<u>American Hazelnut</u>	<u><i>Corylus americana (N)</i></u>
	<u>Cockspur hawthorn</u>	<u><i>Crataegus crus-galli (N)</i></u>
	<u>Hardy Rubber Tree</u>	<u><i>Eucommia ulmoides</i></u>
	<u>Ginkgo (Male)</u>	<u><i>Ginkgo biloba</i></u>
	<u>Thornless Honeylocust</u>	<u><i>Gleditsia triacanthos f. inermis (N)</i></u>
	<u>Kentucky Coffee Tree (Fruitless Varieties)</u>	<u><i>Gymnocladus dioicus (N)</i></u>
	<u>Golden Rain Tree</u>	<u><i>Koelreuteria paniculata</i></u>
	<u>Sweetgum</u>	<u><i>Liquidambar styraciflua</i></u>
	<u>Osage orange (Fruitless Varieties)</u>	<u><i>Maclura pomifera (N)</i></u>
	<u>Black Gum</u>	<u><i>Nyssa sylvatica (N)</i></u>
	<u>Ironwood</u>	<u><i>Ostrya virginiana (N)</i></u>
	<u>Sycamore</u>	<u><i>Platanus occidentalis (N)</i></u>

	<u>Sawtooth Oak</u>	<u><i>Quercus acutissima</i></u>
	<u>White Oak</u>	<u><i>Quercus alba</i> (N)</u>
	<u>Northern Pink Oak</u>	<u><i>Quercus ellipsoidalis</i> (N)</u>
	<u>Fastigate Columnar Oak</u>	<u><i>Quercus robur</i> f. <i>fastigiata</i></u>
	<u>Red Oak</u>	<u><i>Quercus rubra</i> (N)</u>
	<u>Shumard Oak</u>	<u><i>Quercus shumardii</i></u>
	<u>Black Oak</u>	<u><i>Quercus velutina</i> (N)</u>
	<u>Littleleaf Linden</u>	<u><i>Tilia cordata</i></u>
	<u>Silver Linden</u>	<u><i>Tilia tomentosa</i></u>
	<u>Valley Forge American Elm</u>	<u><i>Ulmus americana</i> 'Valley Forge' (N)</u>
	<u>Japanese Zelkova</u>	<u><i>Zelkova serrata</i></u>
Powerline Friendly Trees	<u>Trident Maple</u>	<u><i>Acer buergerianum</i></u>
	<u>Hedge Maple</u>	<u><i>Acer campestre</i></u>
	<u>Paperbark Maple</u>	<u><i>Acer griseum</i></u>
	<u>Grandiflora Serviceberry (Select Cultivars)</u>	<u><i>Amelanchier</i> × <i>grandiflora</i> 'Autumn Brilliance'; 'Princess Diana'</u>
	<u>Allegheny Serviceberry</u>	<u><i>Amelanchier laevis</i> 'Snowcloud' (N)</u>
	<u>Eastern Red Bud</u>	<u><i>Cercis canadensis</i> (N)</u>
	<u>Tokyo Tower Fringe Tree</u>	<u><i>Chionanthus retusus</i> 'Tokyo Tower'</u>
	<u>Pagoda Dogwood</u>	<u><i>Cornus alternifolia</i> (N)</u>
	<u>Kousa Dogwood</u>	<u><i>Cornus kousa</i></u>
	<u>English hawthorn (Select Cultivars)</u>	<u><i>Crataegus laevigata</i> 'Crimson Cloud' ; 'Paul's Scarlet'</u>
	<u>Washington Hawthorn</u>	<u><i>Crataegus phaenopyrum</i> (N)</u>
	<u>Columnar Goldenrain Tree</u>	<u><i>Koeleruteria paniculata</i> 'Fastigiata'</u>
	<u>Amur Maackia</u>	<u><i>Maackia amurensis</i></u>
	<u>Crabapple (Select Cultivars)</u>	<u><i>Malus</i> 'Adirondack'; 'Schmidtcutleaf'; 'Jarmen'; 'Red Barron'; 'Jewelcole'</u>
	<u>Parrotia (Select Cultivars)</u>	<u><i>Parrotia persica</i> 'Inge's Ruby Vase'; 'Vanessa'</u>
	<u>Ornamental Plum (Select Cultivars)</u>	<u><i>Prunus</i> 'Newport'; 'Thundercloud'</u>

<u>Sargent Cherry</u>	<u><i>Prunus sargentii</i></u>
<u>Ivory Silk Japanese Tree Lilac</u>	<u><i>Syringa reticulata</i> 'Ivory Silk'</u>
<u>Summer Sprite Linden</u>	<u><i>Tilia cordata</i> 'Halka'</u>
<u>Zelkova (Select Cultivars)</u>	<u><i>Zelkova serrata</i> 'JFS-KW1' ; <i>Zelkova serrata</i> 'Schmidtlow'</u>

Sec. 23-71.- Tree protection and maintenance

~~Sec. 23-26.- Injuring or destroying trees.~~

- (a) It shall be unlawful to cut, destroy or otherwise injure any shade or ornamental tree or shrub growing within the limits of any public street, highway or place within the city, without the consent of the ~~city manager~~ DPW director.

~~Sec. 23-27.- Trimming of trees by city.~~

- (b) It shall be lawful for the ~~city manager~~ DPW and LLP, once mutually agreed upon, to cause to be properly and necessarily trimmed all trees standing in or that may overhang any highways, streets or avenues, or which in any manner obstruct the public lighting of the city.

~~Sec. 23-99.- Tree trimming standards.~~

- (c) All trees, shrubs and other woody plants that are subject to this article shall be trimmed and pruned in accordance with the then current standards established by the American National Standard Institute for tree care operations, (American National Standards Institute (ANSI) A-300) or, with respect to any activities of the city board of light and power related to this article, the Lowell Light and Power Operating Policy 6-9 5-14 for Power Line Clearance as it may be revised from time to time. In no case shall a tree be "topped" or improperly pruned.

(1) Removal of more than twenty-five (25) percent of the tree canopy within an annual growing season shall be considered tree removal and necessitate replacement.

(2) Removal of more than twenty (20) percent of the tree root zone within a two year period shall be considered tree removal and necessitate replacement.

~~Sec. 23-98.- Maintenance of trees on private property.~~

- (d) The owner of a tree located on private property which overhangs onto a public street right-of-way shall periodically be responsible for trimming its branches (a) so the tree does not obstruct the light from any street lamp or the clear view of any public street intersection, and (b) so there is a clear space of thirteen (13) feet above the surface of the public street

right-of-way. The owner of a dead, diseased, infested or dangerous tree or a tree with broken or decayed limbs on private property which constitutes a danger to public safety shall promptly remove such tree or limbs. The city has the right to trim any tree, shrub or other woody plant that obstructs the light of any street lamp in the public street right-of-way or interferes with the visibility of any traffic control device or sign. Such trimming shall be confined to the area immediately above the public street right-of-way.

(e) Protection of trees during construction. A tree protection plan shall be prepared for all construction projects on public properties that require engineered or architectural drawings. This plan will outline specific measures to protect trees during construction and offset or mitigate impacts to protected trees.

(1) All trees to be preserved in construction work zones shall be protected by a protection fencing that extends to the drip line of the protected tree(s). Construction activities, including driving of machinery or pedestrian movements, and the storage of equipment shall not occur within these protected areas. The fence shall be four (4) feet in height, clearly signed, and firmly anchored into the ground. Barriers shall be erected before demolition, grading, or construction begins and remain in place until all construction activities have been completed.

(2) When excavation near a tree to be protected must be carried out, damage can be limited by root pruning. Root pruning shall be completed before grading is started and shall occur outside the protective tree fencing. When root pruning is necessary, clean cuts perpendicular to the natural growth direction shall be made, excavated areas shall be backfilled within an hour of pruning, and watering shall occur within twenty-four (24) hours. Not more than thirty-three percent (33%) of the critical root zone shall be disturbed.

Sec. 23-72. - Removal and replacement of trees on public property

(a) Procedures for tree removal:

(1) Submit a completed tree removal permit to the city, as described in Sec. 23-66.

(2) If the request for tree removal includes five (5) or more trees measuring six (6) inch DBH or greater, the request will be sent to the city arbor board for review and recommendation.

(3) A determination by the DPW director and LLP Distribution Manager will be made regarding the removal request, and a written denial or permit issued.

(4) Additional terms of the tree removal permit may include tree protection measures for adjacent trees and/or replacement of the tree(s) to be removed in accordance with this section.

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~~Sec. 23-93. - Tree removal for non-utility operation or public safety requests and replacement.~~

(b) If the ~~city manager~~DPW director and the LLP distribution manager, or his/her/their designee, shall determine that an existing tree, shrub or other woody plant located in the public street right-of-way, a city park or other city-owned property has died or is diseased, disfigured or partially destroyed, ~~they/he/she~~ shall authorize its removal. The preservation of woodland areas, individual trees, similar woody vegetation and related natural resources, shall have priority over development when there are other functional on-site location/design alternatives. Trees proposed for removal to accommodate new public site features, such as sidewalks, roads, or buildings, will be addressed on a case-by-case basis.

~~Sec. 23-97.~~ Tree removal for utility operation or public safety.

(c) If a public or private utility company (which shall include ~~the city department of light and power~~LLP) or the ~~city manager~~DPW director or his/her/their designee determines that a tree, shrub or other woody plant located in a public street right-of-way, city park or other city-owned property is a detriment to utility operations or a public safety concern, it may be trimmed or removed to provide the necessary and appropriate clearance or to otherwise eliminate the operational or public safety concern. Any tree, shrub or other woody plant removed shall be replaced at a location determined by the ~~city manager or his/her~~DPW director or their designee. ~~At the time of removal, a fee as established from time to time by resolution of the city council shall be paid by the party responsible for the removal and deposited in a designated city tree fund to pay for the replacement unless otherwise provided by resolution of the city council.~~

(d) ~~Tree replacement and fees.~~ All trees, shrubs and other woody plants that are removed from public street right-of-ways, city parks and other city-owned property shall be replaced on a one-to-one basis, ~~at a location to be determined by the city manager or his/her designee.~~

- (1) Preference will be given to placing replacement trees at or adjacent to the former location of the removed tree, if feasible. If the tree was removed due to conflict with utilities, lines of site, or new site features, such as sidewalks, roads, or public buildings, a more appropriate tree species or alternate location for the tree replacement shall be determined by the DPW director or their designee.
- (2) Trees removed for public safety concerns, such as utility or line of site conflict, tree death, disease, disfigurement, or partial destruction due to natural causes shall be replaced on a per tree basis.
- (3) Trees removed because of proposed site features, such as sidewalks, roads, or public buildings, shall be replaced in caliper inches at a rate of 50% the total DBH removed.
- (4) Tree replacement for trail projects is not required but the adjustment of trail alignment to preserve trees over six (6) inch DBH is highly encouraged.
- (5) Replacement trees shall be at least two and a half (2.5) caliper inches upon installation. At the time of the authorization and removal of a tree, shrub or other woody plant a fee as established from time to time by resolution of the city council shall be paid by the party responsible for removal and deposited in a designated city

Commented [RM5]: Replaced by whom? Would the city trust the applicant to properly replace the tree themselves or is there a preference for payment in-lieu so the city can plant the replacement trees?

~~tree fund for its replacement unless otherwise provided by resolution of the city council.~~

- (6) At the time of the authorization and removal of a tree, a fee as established based on that calendar year's annual weighted average item price report for Region # from the Michigan Department of Transportation (MDOT) shall be paid by the party responsible for removal and deposited in a designated city tree fund for its replacement.

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Chapter 23- VEGETATION

ARTICLE I.- IN GENERAL

Sec. 23-1.- Intent.

It is the intent of this article to promote and protect the public health, safety and welfare by regulating the planting, maintenance and removal of trees, shrubs and other woody plants within the city to maintain a healthy tree canopy, encourage biodiversity, reduce impacts of stormwater and urban heat island effects, provide habitat for wildlife, and enhance community aesthetics. It is the further intent of this article to cause the replacement of each approved tree species that is removed from public street right-of-ways, city parks and other city-owned property. Such replacements shall be of an approved species as designated by the city arbor board and at locations as shall be determined by the Department of Public Works (DPW) director, or their designee; thereby ensuring the variety and longevity of the city tree inventory.

Sec. 23-2.- Definitions.

For purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) Boulevard: A landscaped median in the center of a street, typically lined with trees.
- (b) City Arbor Board (Arbor Board): An advisory board established by the City of Lowell who is tasked with the development and annual update of the city's tree plan, documenting the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in public parks, along public streets and roads, within public right-of-ways and within other public areas. See ARTICLE II. - CITY ARBOR BOARD.
- (c) Caliper: Thickness or diameter of the trunk of a tree taken at a standard height, used in specifying nursery stock. Trees under four (4) inch caliper are measured at six (6) inches above the soil line; trees over four (4) inch caliper are measured at twelve (12) inches above the soil line.
- (d) Certified arborist: A professional arborist certified by the International Society of Arboriculture (ISA).
- (e) Critical root zone (CRZ): Area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located.
- (f) Drip line: The imaginary vertical line that extends downward from the outermost tips of tree branches to the ground.
- (g) Public property: Land owned by the City, County, State, or federal government including but is not limited to rights-of-way, easements, parks, trails, cemeteries, or government facilities.
- (h) Root collar: Transition zone from trunk to roots where the trunk expands into the buttress or structural roots. Also known as root crown, root flare, and trunk flare.
- (i) Department of Public Works (DPW): City of Lowell Department of Public Works

- (j) Diameter Breast Height (DBH): Thickness or diameter of the trunk of a tree taken at four and one-half feet above the existing grade, used in measuring established trees. DBH is measured in inches.
- (k) Lowell Light and Power (LLP): City of Lowell owned and operated electric utility, governed by an appointed board.
- (l) Parkway: A landscaped edge of a street, typically lined with trees. Parkways are often situated between paved areas along the street edge, like sidewalks and the back of curb.
- (m) Private Property: Land owned by non-governmental entities, that includes but is not limited to residences, businesses, or churches.
- (n) Pollarding: Specialty pruning technique in which a tree with a large-maturing form is kept relatively short. Starting on a young tree, internodal cuts are made at a chosen height, resulting in the development of callus knobs at the cut height. This requires regular (usually annual) removal of the sprouts arising from the cuts. Pollarding is not topping, but is not considered an appropriate pruning technique for all trees. (needs discussion)
- (o) Topping: The severe pruning of limbs to such a degree so as to remove the normal canopy and disfigure the tree.
- (p) Tree, dead or dying: A tree that is diseased or damaged beyond repair, has no live tissue or is determined to have less than 10% live tissue by a certified arborist.
- (q) Tree fund: A budget account to be used for activities associated with public tree inventory, protection, maintenance and planting. Payments to the tree fund may be made in-lieu of tree replacement, as described in ARTICLE IV. – TREES.
- (r) Tree, healthy: A tree showing good structural integrity, free of serious diseases, and maintaining normal appearance appropriate to the species including size of tree and leaves, normal coloration, and displaying normal vigor and growth characteristics.
- (s) Tree, limited use: See Sec. 23-70.
- (t) Tree, powerline friendly: Woody perennial having one dominant trunk and an estimated mature height equal to or less than twenty-five (25) feet, that when fully grown, will have minimal conflict with overhead power utilities while allowing clear passage of people, animals and/or vehicles below its crown.
- (u) Tree, prohibited: See Sec. 23-70.
- (v) Tree protection plan (TPP): A plan which outlines specific measures to protect trees during construction or other site disturbance. The TPP also addresses requirements for offsetting or mitigating impacts to protected trees, such as transplanting or planting replacement trees.
- (w) Tree, street: Woody perennial with good tolerance of urban conditions, having one dominant trunk and an estimated mature height greater twenty-five (25) feet, that when fully grown, will provide shade and/or shelter for the land beneath while allowing clear passage of people, animals and/or vehicles below its crown.

- (x) Tree, unsafe condition: A tree that, by reason of its nature, inappropriate location, or lifecycle, is injurious to public utilities, blocks clear vision of traffic control devices, damages or impedes zones of travel, or is dead or diseased.

Secs. 23-3. – 23.22.- Reserved.

ARTICLE II.- CITY ARBOR BOARD

Sec. 23-23.- Creation.

There is hereby created a board of the city to be known as the city arbor board to accomplish the public purposes and who shall have such powers, duties and responsibilities as hereinafter set forth.

Sec. 23-24.- Duties and responsibilities.

- (a) The city arbor board shall study, investigate, counsel, and develop, annually update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in public parks, along public streets and roads, within public right-of-ways and within other public areas. Such plan as annually updated shall be for the immediately succeeding fiscal year of the city and shall be presented to the city council in April of each year. Upon review, acceptance and approval by the city council it shall constitute the official comprehensive tree plan of the city. In addition, the city arbor board shall, at the request of the city council, consider, investigate, make findings, report and make recommendations to the city council on any matter or question within the scope of its work as set forth in this section.
- (b) To ensure the intent of this ordinance and the city's tree plan are being followed, the city arbor board shall review and make recommendations on projects that may impact the care, preservation, pruning, placement, removal or disposition of trees and shrubs in public spaces. This may include, but is not limited to, the following project types:
- (1) Public road construction/reconstruction and/or streetscape enhancements;
 - (2) Utility placement and/or removal that may conflict with existing trees or inhibit the placement of future trees;
 - (3) Park, cemetery, or public facility site construction/reconstruction;
 - (4) Projects that may remove five or more trees measuring 6 inch DBH or greater on public property.
- (c) City arbor board review is not required for the removal of hazardous and diseased trees which pose a threat to public health, safety, and welfare.

Sec. 23-25.- Composition.

The city arbor board shall consist of five (5) voting members, all of whom shall be registered electors of the city. One (1) voting member shall be a currently serving city councilperson and one (1) voting member shall be a current member of the city board of light and power. All members shall be approved by the mayor and confirmed by a majority of the members then

serving on the city council, provided, however, the councilperson to be appointed shall not vote on the confirmation of his or her appointment. In addition, the city may appoint not more than one (1) ex-officio nonvoting member who shall be a certified tree arborist, landscape architect, horticulturalist, or other similar professional who need not be a registered elector of the city, who shall be identified by the city manager and who shall agree to serve in such capacity.

Sec. 23-26.- Term of office.

The term of office for city arbor board voting members, other than the member also serving on the city council and the member also serving on the city board of light and power, shall be for three (3) years, provided, that for the first members appointed, one (1) member shall be appointed for a three-year term, one (1) member shall be appointed for a two-year term, and one (1) member shall be appointed for a one-year term. Except for the initial appointment of such board members where a member's term shall commence upon appointment, all terms of such members shall commence on July 1. If such board member's term has expired, and a successor has not been appointed, such board member shall continue to serve until a successor is appointed. The terms of the board member appointed as a currently serving city councilperson and the board member appointed as a current member of the city board of light and power shall begin on the date of appointment and end on date such member is no longer a city councilperson or member of the city board of light and power. Such board members shall not continue to serve after their term has ended even if a successor has not been appointed.

Sec. 23-27.- Vacancies.

Vacancies on the city arbor board shall be filled in the same manner as regular appointments for the remainder of the unexpired term of the appointment vacated.

Sec. 23-28.- Removal from office.

A board member may be removed from the city arbor board by the city council at any time for cause as determined solely by the city council upon receiving a recommendation for removal by the city arbor board.

Sec. 23-29.- Compensation.

Members of the city arbor board shall receive no compensation, but shall be entitled to their actual and necessary reasonable expenses incurred in the performance of their duties as approved by the city council.

Sec. 23-30.- Rules of procedure.

The city arbor board may adopt such rules of procedure for carrying out its powers, duties and responsibilities that are not inconsistent with the provisions of this article.

Sec. 23-31.- Meetings.

All meetings of the city arbor board shall, except as otherwise permitted by law, be open to the public and held in compliance with the Michigan Open Meetings Act, Act 267 of the Public Acts of Michigan of 1976, as amended (MCL 15.261 et seq.). Meetings of the city arbor board may be called by the board chairperson or by any two (2) of its board members.

Sec. 23-32.- Quorum.

A majority of the voting board members then serving on the city arbor board shall constitute a quorum for the conducting of the business of the board.

Sec. 23-33.- Chairperson.

The members of the city arbor board shall annually elect one (1) of its members as chairperson. The chairperson shall be responsible for conducting all meetings of the board. Another member of the board, selected by board members present at the meeting, may serve as temporary chairperson for a meeting at which the chairperson is absent.

Sec. 23-34.- Execution of contracts and commitment of funds.

- (a) The city arbor board may advise and make recommendations to the city council regarding the entering into contracts or the expenditure of city funds in connection with its duties and responsibilities, but may not itself enter into contracts or commit city funds.
- (b) A tree fund shall be established and reserved for the replacement of and/or planting of new trees on public properties. The city arbor board should be provided status updates of the tree fund balance during each regular meeting to inform recommended expenditures to the city council.

Secs. 23-35—23-45.- Reserved.

ARTICLE III.- NOXIOUS SHRUBS, WEEDS AND GRASS

Sec. 23-46.- Property conditions declared a public nuisance.

The following conditions are declared to be a public nuisance:

- (1) Trees, shrubs, bushes, weeds or other plant growth obstructing a public sidewalk or pedestrian walkway, a road or street right-of-way or other public way;
- (2) Weeds, grasses or other plant growth that endanger public property or the health or safety of the public, or interfere with, obstruct or render dangerous any public way including noxious weeds, as defined in Section 2 of Act 359 of the Public Acts of Michigan of 1941, as amended, including ragweed, poison ivy, poison sumac, poison oak and Canada thistle;
- (3) Weeds, grasses and undergrowth higher than twelve (12) inches; and
- (4) Dead trees deemed hazardous to the public or to an adjacent property.

Sec. 23-47.- Nuisances prohibited.

- (a) For all residentially zoned properties and all other properties on which residential uses are located regardless to the zone district, a property owner, tenant or other responsible party shall maintain such property, occupied or vacant, improved or unimproved, free of the nuisances described in section 23-46 in the following areas:

- (1) On areas of developed lots, parcels and units where a traditional lawn has been established;

- (2) The front twenty-five (25) feet measured from the improved right-of-way of residentially zoned lots or parcels, whether or not vacant, or lots or parcels with residential uses in which more than eighty-five (85) percent of the lot or parcel has been developed (for corner lots and parcels, the front twenty-five (25) feet shall be measured from both improved public right-of-ways); and
 - (3) All cleared and graded areas of lots and parcels where lawns or other landscaped improvements are intended to be planted, but have not yet been established.
- (b) For all business and industrial zoned property and all other properties on which there are commercial, office, business and industrial uses regardless of the zone district, a property owner, tenant or other responsible party shall maintain all landscaped areas of the property free of the nuisances described in section 23-46.
- (c) This article is not intended to prohibit or discourage the practice of developing natural groundcover areas, prairie yards, or gardens and lawns using accepted xerophytic plantings and techniques. It is intended to abate and eliminate situations where property is in a state of actual neglect and shows no distinct plan or pattern of upkeep or maintenance.

Sec. 23-48.- Responsibility for maintenance of adjacent properties.

For every property that is to be maintained pursuant to subsections 23-47(a) and (b), shall also include the same maintenance by a property owner, tenant or other responsible party of such property in the area between that property's front property line and an improved public road or street, and in the case of private roads and streets, between the improved private road or street and the front property line.

Sec. 23-49.- Notice of violation.

(a) In the event that a property owner fails to comply or cause compliance with this article, the city shall notify the property owner of the violation and direct that the nuisance be abated. Such notice shall be in writing, addressed to the property owner as shown on the latest ad valorem property tax assessment roll, and shall inform the property owner:

- (1) Of the nature of the violation;
- (2) Of the time in which the violation must be abated, which shall not be less than five (5) days;
- (3) That the city may act to abate any violation that is not abated within the time prescribed;
- (4) That if the city abates the nuisance, the cost of such abatement plus an administrative fee as prescribed in section 23-51 shall be assessed as a lien against the property until paid; and
- (5) That failure of the property owner to abate or cause the abatement of the nuisance may result in civil enforcement or criminal prosecution and/or abatement of the nuisance by the city.

- (b) The failure to receive such notice shall not be a defense against the city's right to collect the costs of nuisance abatement including administrative fees or the initiation of civil enforcement or criminal prosecution of the violation.

Sec. 23-50.- Abatement.

Upon failure, neglect or refusal of a property owner to comply or cause compliance with the provisions of this article, the city or its authorized contractor or designee is authorized to enter upon the property of the property owner to abate the nuisance.

Sec. 23-51.- Administrative fee.

An administrative fee reflecting the city's cost of enforcing this article and as established by resolution of the city council shall be added to the actual costs charged to a property owner for abating a nuisance under this article.

Sec. 23-52.- Charges a lien on property.

Unpaid charges and administrative fees related to the failure to abate a nuisance to a property shall be a lien on such property and, if delinquent, may be collected in the same manner as the collection of delinquent ad valorem property taxes.

Secs. 23-53—23-65.- Reserved.

ARTICLE IV.- TREES

Sec. 23-66.- Permits for tree planting, care and removal.

The Department of Public Works (DPW) director and Lowell Light and Power (LLP) distribution manager, or their designee, shall have control of the planting, removal and care of trees, shrubs and other woody plants in the public street right-of-ways, city parks and other city-owned property subject to the provisions of this article. The owner of land abutting a public street right-of-way may, upon obtaining a written permit from the city, prune, plant, remove, spray and otherwise maintain trees, shrubs and other woody plants in that part of the street right-of-way abutting such owners land not used for pedestrian or vehicular travel. No person shall otherwise prune, plant, remove, spray or otherwise maintain trees, shrubs and other woody plants in any public street right-of-way, city park or other city-owned property. Each permit shall specify the extent and conditions of authorization.

Sec. 23-67.- Road commission jurisdiction.

For those public street right-of-ways in the city which the Kent County road commission has jurisdiction or maintenance responsibility, the tree policy of the road commission, rather than the provisions of this article shall apply.

Sec. 23-68.- Persons engaged in trimming, pruning and removal.

All persons, firms and companies providing trimming, pruning and removal services of trees, shrubs and woody plants within the public street right-of-ways or in city parks or other city-owned property shall be, if required, currently licensed by the appropriate state authority, if any, and shall have in effect a general liability policy of insurance which names the city as an additional or co-insured. A copy of the policy or a certificate of insurance shall be filed with the city clerk before beginning work within the city.

(a) Responsibility of persons engaged in trimming, pruning and removal.

- (1) Following trimming, pruning and removal, all debris and brush shall be cleared from the site and properly disposed. Wood 4" in diameter and larger shall be left for property owner, if so requested, or removed from the site entirely.
- (2) When a tree is removed from City property or the property of a City resident or business, the persons completing said tree removal shall remove the tree stump and restore the lawn or surrounding groundcover, including any backfilling of clean topsoil necessary for future viable plant growth.
- (3) If a tree is to be replaced in the same or near approximate location as the removed tree, full stump removal will be required. If no tree is planned for the location of the removed tree, stump grinding to a depth of 6" below grade will be required, pending DPW director approval.

Sec. 23-69.- Community feedback regarding trees on public property

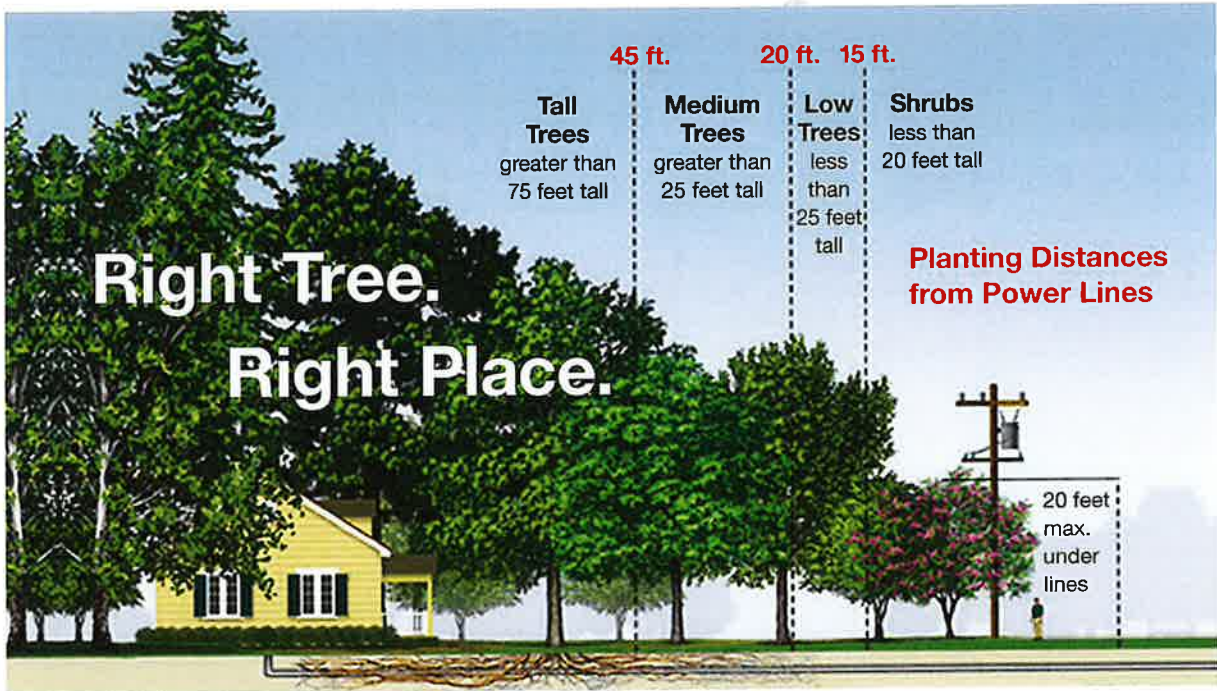
- (a) Persons with concern or comment regarding the removal or placement of trees on public property may submit a completed tree feedback form to the city. This permit will be reviewed by the DPW director and shared with the city arbor board at their next regularly scheduled meeting.

Sec. 23-70.- Planting trees on public property

- (a) Consent required for planting trees. Whenever any person desires to plant any shade or ornamental trees in any of the public highways, streets and avenues of the city, they shall submit an application to the DPW director in writing, specifying the number and kind they desire to plant and the highway, street and avenue where they desire to plant the same. Whereupon the DPW director shall determine by an order providing whether such person may plant any trees upon such highway, street or avenue without injury or detriment to the public interest.
- (b) Clear vision clearance. No trees, shrubs, woody plants, other plantings, fencing or other obstruction shall be located or maintained on a corner lot which will obstruct the view of the driver or operator of a vehicle within the public street right-of-way. Such unobstructed view area shall mean a triangular area formed by the private property lines along each public street right-of-way and a line connecting them at a point twenty-five (25) feet from the private property lines extended. Trees, shrubs, woody plants and other plantings may be located in such unobstructed view area provided they will not achieve a height at maturity greater than thirty (30) inches. In addition, no trees, shrubs, woody plants or other plantings shall be located or maintained in any front, side or rear yard of a lot which, in the opinion of the DPW director, or their designee, will obstruct the view from vehicles entering or leaving the lot from driveways or adjacent private roadways.
- (c) Planting and spacing of trees. The planting of trees, shrubs and other woody plants in public street right-of-ways, city parks and other city-owned property shall be authorized by the DPW director, or their designee, in accordance with prescribed planting practices, including their location and spacing. The planting and spacing of city provided trees on private

property shall be mutually approved by the property owner and the DPW director or their designee. Thirty (30) feet on-center planting should be used as a minimum spacing for street trees, when feasible. For newly planted trees, spacing from the on-center measurement of the tree to the following items is required:

- (1) 15 feet from fire hydrants, utility junction boxes, and utility poles
- (2) 10 feet from alleys, driveways, or other curb cuts
- (3) 10 feet from underground utility service lines and stormwater catch basins



(d) Protection of sidewalks and streets

- (1) Covering soil surface near trees; sidewalks. No person shall place within the public street right-of-ways any material which will impede or redirect the full and free passage of water, air or fertilizer or other plant food to the roots of any tree, shrub or other woody plant except for a sidewalk of authorized width and location. Where there are sidewalks within the public street right-of-way, every effort shall be made to place materials that will prevent the growth of root structures from impacting the sidewalk. This includes providing proper spacing between sidewalks and planting areas, providing adequate soil volumes for trees to thrive, and the use of root barriers near underground utilities and curbs, when necessary.
- (2) Parkway and boulevard authorized widths. Trees planted in parkways and boulevards should be centered within the landscape area, when feasible. Parkway and boulevard widths shall adhere to the minimum dimensional standards described below to protect sidewalks, curbs, and roads from pavement due to root growth:

- i. Parkways or boulevards that will accommodate large trees with a mature canopy of thirty-six (36) feet wide or greater shall provide a minimum landscape area of eight (8) feet wide.
 - ii. Parkways or boulevards that will accommodate medium trees with a mature canopy between thirty-five (35) feet and twenty-six (26) feet wide shall provide a minimum landscape area of six (6) feet wide.
 - iii. Parkways and boulevards that will accommodate small trees with a mature canopy of twenty-five (25) feet wide or less shall provide a minimum landscape area of four (4) feet wide.
- (e) Species of trees. It is the policy of the city that it will not plant more than fifty (50) percent of the trees in one (1) area of the city with one (1) single species of trees during a calendar year. It is recommended that the species of trees planted throughout the city be staggered to prevent the loss of inventory from disease or infestation. A list of prohibited, limited use, and recommended tree species can be found in the subsequent section. Species indicated on the recommended tree species list shall be planted in the public street right-of-ways, city parks or other city-owned property or with funds made available from the designated city tree fund.
- (1) Prohibited Trees. The following trees are not permitted in an effort to protect the health, safety, and welfare of the City. The species listed below have characteristics that make them poor fits for urban spaces, such as being prone to splitting; having wood that is brittle and breaks easily; roots that clog drains and sewers; have been identified as invasive species, or may be unusually susceptible to disease or pests.

Prohibited Trees	
Common Name	Botanical Name
Norway Maple	<i>Acer platanoides</i>
Tree of Heaven	<i>Ailanthus species</i>
Russian Olive	<i>Elaeagnus Angustifolia</i>
Ash	<i>Fraxinus species (without Emerald Ash Borer resistance)</i>
Female Ginkgo	<i>Ginkgo biloba</i>
Honey Locust (with thorns)	<i>Gleditsia triacanthos (with thorns)</i>
Populus nigra var. italica	<i>Lombardy Poplar</i>
Mulberry	<i>Morus species (non-native varieties)</i>
Bradford Pear	<i>Pyrus calleryana 'Bradford'</i>
Black Locust	<i>Robinia species</i>

Willow Tree	<i>Salix tree species (non-native varieties)</i>
Elm	<i>Ulmus (without Dutch Elm disease resistance or treatment)</i>
Chinese Elm	<i>Ulmus Parvifolia</i>

- (2) **Limited Use Trees.** Trees listed under the Limited Use category are permitted in locations with open spaces, like parks or large greens, where there is limited contact with people spaces (walkways, picnic areas, etc.), vehicles, utilities, and structures.

Limited Use Trees	
Common Name	Botanical Name
Box Elder	<i>Acer negundo</i>
Silver Maple	<i>Acer Saccharinum</i>
Catalpa	<i>Catalpa speciosa</i>
Black Walnut	<i>Juglans Nigra</i>
Mulberry	<i>Morus rubra</i>
Eastern Cottonwood	<i>Populus deltoids</i>
Black Willow	<i>Salix nigra</i>

- (3) **Recommended Trees.** The following table includes suggested trees that meet USDA plant hardiness standards for the City of Lowell and have characteristics that make them more tolerant of urban conditions. This list is non-exhaustive, but is intended to provide a standard reference for pre-approved trees that may be considered for use on public property.
- (4) Trees should be selected based on specific environmental conditions and space needs. Tree form (single trunk) should be specified for all species selected as street trees. Powerline friendly trees are illustrated in the table below. The mature height of selected powerline friendly trees should not conflict with the height of overhead utilities for which they will be placed nearby.
- (5) A mixture of species to increase biodiversity and the use of native species is encouraged. Native species or cultivars in the recommended trees list are identified with an (N) at the end of the botanical name.

Recommended Trees		
Tree Type	Common Name	Botanical Name

Street Trees	Freeman Maple	<i>Acer × freemanii</i>
	Red Maple	<i>Acer rubrum</i> (N)
	Sugar Maple	<i>Acer saccharum</i> (N)
	River Birch	<i>Betula nigra</i> (N)
	European Hornbeam	<i>Carpinus betulus</i>
	American Hornbeam	<i>Carpinus caroliniana</i> (N)
	Hackberry	<i>Celtis occidentalis</i> (N)
	Fringe Tree	<i>Chionanthus virginicus</i> (N)
	American Hazelnut	<i>Corylus americana</i> (N)
	Cockspur hawthorn	<i>Crataegus crus-galli</i> (N)
	Hardy Rubber Tree	<i>Eucommia ulmoides</i>
	Ginkgo (Male)	<i>Ginkgo biloba</i>
	Thornless Honeylocust	<i>Gleditsia triacanthos f. inermis</i> (N)
	Kentucky Coffee Tree (Fruitless Varieties)	<i>Gymnocladus dioica</i> (N)
	Golden Rain Tree	<i>Koelreuteria paniculata</i>
	Sweetgum	<i>Liquidambar styraciflua</i>
	Osage orange (Fruitless Varieties)	<i>Maclura pomifera</i> (N)
	Black Gum	<i>Nyssa sylvatica</i> (N)
	Ironwood	<i>Ostrya virginiana</i> (N)
	Sycamore	<i>Platanus occidentalis</i> (N)
	Sawtooth Oak	<i>Quercus acutissima</i>
	White Oak	<i>Quercus alba</i> (N)
	Northern Pink Oak	<i>Quercus ellipsoidalis</i> (N)
	Fastigate Columnar Oak	<i>Quercus robur f. fastigiata</i>
	Red Oak	<i>Quercus rubra</i> (N)
	Shumard Oak	<i>Quercus shumardii</i>
	Black Oak	<i>Quercus velutina</i> (N)
	Littleleaf Linden	<i>Tilia cordata</i>

	Silver Linden	<i>Tilia tomentosa</i>
	Valley Forge American Elm	<i>Ulmus americana</i> 'Valley Forge' (N)
	Japanese Zelkova	<i>Zelkova serrata</i>
Powerline Friendly Trees	Trident Maple	<i>Acer buergerianum</i>
	Hedge Maple	<i>Acer campestre</i>
	Paperbark Maple	<i>Acer griseum</i>
	Grandiflora Serviceberry (Select Cultivars)	<i>Amelanchier</i> × <i>grandiflora</i> 'Autumn Brilliance' ; 'Princess Diana'
	Allegheny Serviceberry	<i>Amelanchier laevis</i> 'Snowcloud' (N)
	Eastern Red Bud	<i>Cercis canadensis</i> (N)
	Tokyo Tower Fringe Tree	<i>Chionanthus retusus</i> 'Tokyo Tower'
	Pagoda Dogwood	<i>Cornus alternifolia</i> (N)
	Kousa Dogwood	<i>Cornus kousa</i>
	English hawthorn (Select Cultivars)	<i>Crataegus laevigata</i> 'Crimson Cloud' ; 'Paul's Scarlet'
	Washington Hawthorn	<i>Crataegus phaenopyrum</i> (N)
	Columnar Goldenrain Tree	<i>Koelreuteria paniculata</i> 'Fastigiata'
	Amur Maackia	<i>Maackia amurensis</i>
	Crabapple (Select Cultivars)	<i>Malus</i> 'Adirondack' ; 'Schmidtcutleaf' ; 'Jarmin' ; 'Red Barron' ; 'Jewelcole'
	Parrotia (Select Cultivars)	<i>Parrotia persica</i> 'Inge's Ruby Vase' ; 'Vanessa'
	Ornamental Plum (Select Cultivars)	<i>Prunus</i> 'Newport' ; 'Thundercloud'
	Sargent Cherry	<i>Prunus sargentii</i>
	Ivory Silk Japanese Tree Lilac	<i>Syringa reticulata</i> 'Ivory Silk'
	Summer Sprite Linden	<i>Tilia cordata</i> 'Halka'
	Zelkova (Select Cultivars)	<i>Zelkova serrata</i> 'JFS-KW1' ; <i>Zelkova serrata</i> 'Schmidtlow'

Sec. 23-71.- Tree protection and maintenance

- (a) Injuring or destroying trees. It shall be unlawful to cut, destroy or otherwise injure any shade or ornamental tree or shrub growing within the limits of any public street, highway or place within the city, without the consent of the DPW director.

- (b) Trimming of trees by city. It shall be lawful for the DPW and LLP, once mutually agreed upon, to cause to be properly and necessarily trimmed all trees standing in or that may overhang any highways, streets or avenues, or which in any manner obstruct the public lighting of the city.
- (c) Tree trimming standards. All trees, shrubs and other woody plants that are subject to this article shall be trimmed and pruned in accordance with the then current standards established by the American National Standard Institute for tree care operations (American National Standards Institute (ANSI) A-300) or, with respect to any activities of the city board of light and power related to this article, the Lowell Light and Power Operating Policy 6-9 for Power Line Clearance as it may be revised from time to time. In no case shall a tree be "topped" or improperly pruned.
- (1) Removal of more than twenty-five (25) percent of the tree canopy within an annual growing season shall be considered tree removal and necessitate replacement.
 - (2) Removal of more than twenty (20) percent of the tree root zone within a two year period shall be considered tree removal and necessitate replacement.
- (d) Maintenance of trees on private property. The owner of a tree located on private property which overhangs onto a public street right-of-way shall periodically be responsible for trimming its branches (a) so the tree does not obstruct the light from any street lamp or the clear view of any public street intersection, and (b) so there is a clear space of thirteen (13) feet above the surface of the public street right-of-way. The owner of a dead, diseased, infested or dangerous tree or a tree with broken or decayed limbs on private property which constitutes a danger to public safety shall promptly remove such tree or limbs. The city has the right to trim any tree, shrub or other woody plant that obstructs the light of any street lamp in the public street right-of-way or interferes with the visibility of any traffic control device or sign. Such trimming shall be confined to the area immediately above the public street right-of-way.
- (e) Protection of trees during construction. A tree protection plan shall be prepared for all construction projects on public properties that require engineered or architectural drawings. This plan will outline specific measures to protect trees during construction and offset or mitigate impacts to protected trees.
- (1) All trees to be preserved in construction work zones shall be protected by a protection fencing that extends to the drip line of the protected tree(s). Construction activities, including driving of machinery or pedestrian movements, and the storage of equipment shall not occur within these protected areas. The fence shall be four (4) feet in height, clearly signed, and firmly anchored into the ground. Barriers shall be erected before demolition, grading, or construction begins and remain in place until all construction activities have been completed.
 - (2) When excavation near a tree to be protected must be carried out, damage can be limited by root pruning. Root pruning shall be completed before grading is started and shall occur outside the protective tree fencing. When root pruning is necessary,

clean cuts perpendicular to the natural growth direction shall be made, excavated areas shall be backfilled within an hour of pruning, and watering shall occur within twenty-four (24) hours. Not more than thirty-three percent (33%) of the critical root zone shall be disturbed.

Sec. 23-72.- Removal and replacement of trees on public property

(a) Procedures for tree removal:

- (1) Submit a completed tree removal permit to the city, as described in Sec. 23-66.
- (2) If the request for tree removal includes five (5) or more trees measuring six (6) inch DBH or greater, the request will be sent to the city arbor board for review and recommendation.
- (3) A determination by the DPW director and LLP Distribution Manager will be made regarding the removal request, and a written denial or permit issued.
- (4) Additional terms of the tree removal permit may include tree protection measures for adjacent trees and/or replacement of the tree(s) to be removed in accordance with this section.

(b) Tree removal for non-utility operation or public safety requests. If the DPW director and the LLP distribution manager, or their designee, determine that an existing tree, shrub or other woody plant located in the public street right-of-way, a city park or other city-owned property has died or is diseased, disfigured or partially destroyed, they shall authorize its removal. The preservation of woodland areas, individual trees, similar woody vegetation and related natural resources, shall have priority over development when there are other functional on-site location/design alternatives. Trees proposed for removal to accommodate new public site features, such as sidewalks, roads, or buildings, will be addressed on a case-by-case basis.

(c) Tree removal for utility operation or public safety. If a public or private utility company (which shall include LLP) or the DPW director or their designee determines that a tree, shrub or other woody plant located in a public street right-of-way, city park or other city-owned property is a detriment to utility operations or a public safety concern, it may be trimmed or removed to provide the necessary and appropriate clearance or to otherwise eliminate the operational or public safety concern. Any tree, shrub or other woody plant removed shall be replaced at a location determined by the DPW director or their designee.

(d) Tree replacement and fees. All trees that are removed from public street right-of-ways, city parks and other city-owned property shall be replaced on a one-to-one basis.

- (1) Preference will be given to placing replacement trees at or adjacent to the former location of the removed tree, if feasible. If the tree was removed due to conflict with utilities, lines of site, or new site features, such as sidewalks, roads, or public buildings, a more appropriate tree species or alternate location for the tree replacement shall be determined by the DPW director or their designee.

- (2) Trees removed for public safety concerns, such as utility or line of site conflict, tree death, disease, disfigurement, or partial destruction due to natural causes shall be replaced on a per tree basis.
- (3) Trees removed because of proposed site features, such as sidewalks, roads, or public buildings, shall be replaced in caliper inches at a rate of 50% the total DBH removed.
- (4) Tree replacement for trail projects is not required but the adjustment of trail alignment to preserve trees over six (6) inch DBH is highly encouraged.
- (5) Replacement trees shall be at least two and a half (2.5) caliper inches upon installation.
- (6) At the time of the authorization and removal of a tree, a fee as established based on that calendar year's annual weighted average item price report for Region # from the Michigan Department of Transportation (MDOT) shall be paid by the party responsible for removal and deposited in a designated city tree fund for its replacement.