

CHAPTER 40

(OAK WILT PREVENTION ORDINANCE)

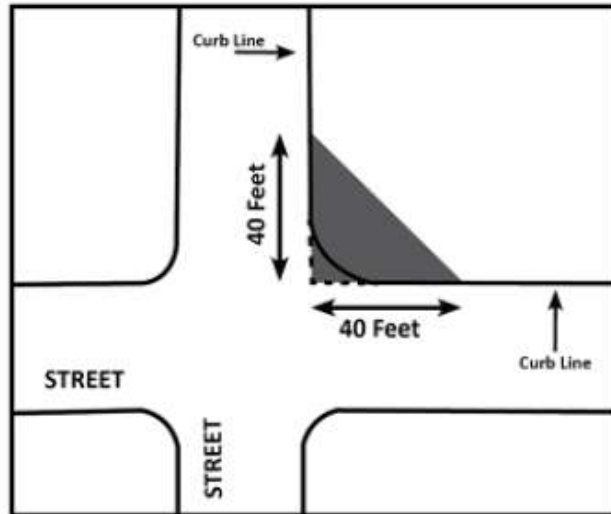
AN ORDINANCE TO AMEND CHAPTER 40 (TREES AND OTHER VEGETATION) OF TITLE III (PARKS AND PUBLIC GROUNDS) OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 3.11 of Chapter 40 (Trees and Other Vegetation) of Title III (Parks and Public Grounds) of the Code of the City of Ann Arbor be amended as follows:

3:11. Definitions.

- (1) "City right-of-way": The lawn extension and sidewalk adjacent to a property within the street right-of-way as well as the street, curb to curb.
- (2) "Lawn extension": In residential areas, the portion of any street right-of-way that is not paved or intended for traffic. Where sidewalks exist, the lawn extension is the area between the sidewalk and the curb, or roadway if there is no curb.
- ~~(3)~~ "City Administrator": The City Administrator or her/his designees.
- ~~(4)~~ "Oak Tree": a large deciduous tree of the genus *Quercus* bearing lobed leaves which may produce acorns. It includes black oaks, bur oaks, chestnut oaks, Chinkapin oaks, pin oaks, red oaks, scarlet oaks, Shumard oaks, swamp oaks, and white oaks. It does not include poison oak vines or shrubs. (*Toxicodendron diversilobum*).
- ~~(3)~~~~(5)~~ "Oak Wilt": the systemic, lethal disease of Oak Trees caused by the fungus *Bretziella fagacearum*.
- ~~(4)~~~~(6)~~ "Rain garden": A shallow planted depression in the city right-of-way or lawn extension designed to collect and filter rainwater runoff from roofs, driveways, sidewalks, and other impervious surfaces.
- ~~(5)~~~~(7)~~ "Shrub": A woody plant smaller than a tree that has a single or multiple main stems arising at or near the ground.
- ~~(6)~~~~(8)~~ "Sight triangle": A triangular area at street intersections, in residential neighborhoods, starting at the corner where 2 curb lines and extending away from the corner for 40 feet along the curb lines, or as determined by the City of Ann Arbor Transportation Department based on the criteria in the most recent AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets.



- (7) "Vegetation": An assemblage of plant species and the ground cover they provide; does not include a tree or shrub.

Section 2. That Section 3.19 of Chapter 40 (Trees and Other Vegetation) of Title III (Parks and Public Grounds) of the Code of the City of Ann Arbor be amended as follows:

3:19. Violations.

- (1) The owner (as shown on the assessor's records) of private property subject to this chapter is responsible for compliance with this chapter. Violations of Section 3:20 may be issued to the property owner, contractor, or person who committed the Oak Wilt Prevention infraction. Each violation of this chapter shall be a civil infraction punishable by a civil fine of up to \$1,000.00, plus costs and all other remedies available by statute.
- (2) Prior to issuing an infraction for a violation of sections 3:14, 3:15, or 3:16, a notice of violation shall be given to the owner as shown on the assessor's records at least 72 hours [prior to commencing the work] by affixing the notice to the premises or sending the notice via US Mail or email to the owner or owner's representative or agent, if known.
- (3) Violation of this chapter shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$250.00 for the second offense, and not less than \$500.00 for each additional or subsequent offense within a 2-year period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$1,000.00. Each day of violation shall be a separate violation.
- (4) If the penalty is not paid within 45 days, it shall be a special assessment against the property as provided in section 1:292 of this Code.

Section 3. That Section 3.20 of Chapter 40 (Trees and Other Vegetation) of Title III (Parks and Public Grounds) of the Code of the City of Ann Arbor be added as follows:

3:20 Oak Wilt Prevention.

(1) Findings: The City Council finds as follows:

- a. Oak Wilt is a disease that infects and rapidly kills healthy Oak Trees. Once an Oak Tree becomes infected with the Oak Wilt fungus, the tree will die and there is no treatment to save the infected tree.
- b. Oak Wilt is initially spread by beetles that feed on the sap of recently cut Oak Trees which then transport the fungus to other Oak Trees. The fungus spreads via roots to nearby trees. Oak Wilt is also spread by moving contaminated logs and firewood to other sites.
- c. Proper remediation of Oak Wilt can cost tens of thousands of dollars because infected Oak Trees need to be trenched or removed;
- d. Oak Wilt has been identified on public lands within the City of Ann Arbor as well as on private property;
- e. Preventative measures such as limiting when Oak Trees can be cut and properly dressing those that have been cut or injured can reduce the occurrence and spread of Oak Wilt disease; and
- f. The health, welfare, and safety of public and private natural resources and the residents of Ann Arbor will be protected if Oak Wilt is prevented from infecting other trees, and because infected trees soon die and become safety hazards to nearby structures and people.

(2) Oak Wilt Regulations:

- a. **Prohibition Period.** Oak Trees of any variety shall not be pruned or trimmed between March 1st and December 1st regardless of their location on private property, public right-of-way, utility easements, or public property.
- b. **Prompt Treatment of Wounds.** Any wound to an Oak Tree, during the Prohibition Period, whether made by pruning, trimming, accident, or construction shall be treated immediately, but no later than 24 hours, with a tree-pruning sealant or latex paint to mask the exposed wound from contaminating other Oak Trees.
- c. **Responsibility of property owners, contractors, and individuals.** It shall be the responsibility of the property owner, contractor, or the person who inflicted the wound to repair, or cause to be repaired, any Oak Trees

injured or wounded by trimming, accident, or construction during the Prohibition Period.

d. **Chipping and Stump Treatment.** Any property owner, contractor, or individual removing an Oak Tree or branch shall promptly chip the tree or branch to less than 3 inches. Stumps left by the removal of Oak Trees shall be, within 24 hours, treated with a tree-pruning sealant or latex paint, ground, or removed.

Section 4. This ordinance shall take effect on the tenth day after legal publication.