

**(DRAFT FOR CONSIDERATION ONLY)**

## **8.24 CARE OF TREES.**

(1) INTENT AND PURPOSE. It is hereby declared to be the intent of the Village to regulate and control the planting, removal, maintenance and protection of trees, plants and shrubs in or upon public and private areas of the Village in order to:

- (a) Avoid dangerous conditions which may result in injury to persons using the public highways and other public areas.
- (b) Promote and enhance the aesthetics and general welfare of the Village.
- (c) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in the public areas.
- (d) Protect all trees and shrubs, both public and private, within the Village against the spread of disease, insects or pests.

(2) DEFINITIONS. Whenever the following words or terms are used in this Section, they shall be construed to have the following meanings:

- (a) *Public Trees, Plants and Shrubs:* All trees, plants and shrubs located or to be planted in or upon public areas.
- (b) *Public Areas:* All public rights of way, or lands owned or controlled by the Village.

(3) PERMIT TO PLANT. It shall be unlawful for any person to plant any tree, plant or shrub or authorize any person to do so, in or upon any public area of the Village without first obtaining from the Village Forester a written permit to do so, and without complying with the conditions set forth in the written permit and with the provisions of this Section. Permits may be granted only after the Village Forester receives a written application and after inspection and approval of the proposed planting site and planting material. The Village Forester may request a detailed, scaled drawing of the landscape planting plans before any permit shall be issued. All planting plans shall show accurately:

- (a) The proposed location, species/variety and size of all planting material together with the location, species and size of all existing trees.
- (b) The proximity to any proposed or existing highway, driveway or parking areas.
- (c) The nature of the soil in the planting space to a depth of three feet and the location of existing or altered drainage patterns. Permits shall expire one year after the date of permit.

(4) PERMIT TO REMOVE, TRIM OR MAINTAIN. Except upon order of the Village Forester, it shall be unlawful for any person without a permit from the Village Forester to remove, destroy, cut, do surgery, treat, alter or injure any public tree, plant, or shrub or portion

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thereof above or below ground or to cause or authorize or procure any person to do so. An application to the Village Forester for such permit must state the number and kind of trees to be trimmed, removed or treated and the kind and condition of nearest trees upon the adjoining property. If in the judgment of the Village Forester the desired removing, cutting, pruning, treatment or trimming shall appear necessary and the proposed method and workmanship thereof shall be such as the Village Forester approves, the Village Forester may thereupon issue a permit in writing for such work. Any work done under such written permit must be performed in strict accordance with the terms thereof and the provisions of this Section and under the supervision and direction of the Village Forester or his duly authorized representative.

(5) INJURY TO PUBLIC TREES, PLANTS AND SHRUBS. No person shall, without a written permit from the Village Forester in the case of a public tree, plant or shrub, do or cause to be done by others any of the following acts:

- (a) Secure, fasten, or run any rope, chain, wire, sign, unprotected electrical installation or other device or material to, around, or through a public tree, plant, or shrub.
- (b) Break, injure, mutilate, deface, kill or destroy any public tree, plant, or shrub or permit any fire to burn where it will injure any public tree, plant or shrub.
- (c) Permit any toxic chemical, gas, smoke, salt brine, oil, or other injurious substance to seep, drain or be emptied upon or about or onto any sidewalk, road, pavement or gutter at a point whence such substance may injure any public tree, plant or shrub.
- (d) Remove any guard, stake, or other device or material intended for the protection of a public tree, plant or shrub.
- (e) Place any stone, cement, asphalt or other impervious material or substance in such a manner as to obstruct the free access of air and water to the roots of any public tree, plant or shrub.
- (f) Excavate any ditch, tunnel or trench or lay any drive within a radius of eight (8) feet from any tree, plant or shrub, unless authorized by permit to construct, maintain or repair utilities. Whenever a permit is required under this Section for new work to be done by a public utility, or contractor within a public area, the Village Forester may limit the work to be done to the actual necessities of the permittee, and may assign an inspector to supervise the work to be done under the provisions of the permit.

Any public utility and/or contractor planning underground work within or adjacent to a public area shall submit a drawing of the project area to the Village Forester and shall identify the location of the proposed installation and its overall dimensions and depth from ground surface, its anticipated date of installation; and in addition shall indicate on such drawing all public trees located along the project route within eight (8) feet of any proposed excavation.

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Such drawings shall be submitted fifteen (15) days prior to the start of any construction or excavation.

- (g) Erect, alter, repair, raze or excavate without placing sufficient guards or protectors as shall prevent injury to public trees, plants and shrubs by such operations. All moving of public trees, plants, and shrubs made necessary by the moving of a building or structure, or for any other purpose shall be done by the Village Forester or under the Village Forester supervision at the expense of the applicant. Should such moving or replanting cause the death of such tree, plant or shrub, the applicant shall replace the same at the applicant's expense.

(6) NOTICE TO ABATE PUBLIC NUISANCES. Any tree or part thereof, whether alive or dead, which is infected or hazardous so as to endanger the public or other trees, plants or shrubs growing within the Village, whether growing upon public or private premises is hereby declared to be a public nuisance. No person shall permit any such public nuisance to remain on any premises owned or controlled by such person within the Village.

If the Village Forester determines that there exists a public nuisance or threat to the public health, safety and welfare within the Village, the Village Forester shall report such public nuisance to the Village Board. The Village Board shall, at the next regular Village Board meeting, consider any action to be taken as a result of the identification of the public nuisance. The Village Administrator shall serve notice personally or by registered mail upon the owner or occupant of the premises where such nuisance is located of the date and time of the meeting. Such notice shall describe the tree, plant or shrub determined to be a public nuisance or which otherwise represents a threat to the public health, safety and welfare; including the specific location of the tree, plant or shrub; and further describe the general nature of the contemplated changes or improvements required to abate, remove and/or destroy such public nuisance.

If the Village Board agrees that there exists a public nuisance, the Village Forester shall notify the owner or occupant of the premises where such nuisance is located that such public nuisance exists. Such notice shall direct the owner or occupant of the premises to abate, remove and destroy such nuisance within fourteen (14) days and shall state that unless such nuisance is so abated, removed and destroyed, the Village may cause the same to be abated and will charge the cost thereof to the owner; provided that upon written application of the owner or occupant of the premises to the Village President or the Village Forester, the Village President or the Village Forester may grant an extension of time (but in no event beyond the next succeeding first day of March) to so abate, remove and destroy such nuisance for good cause shown.

Failure to abate, remove or destroy any nuisance within the time provided, or as so extended, shall be a violation of this Section. Any person who violates any of the provisions of this Section shall, upon conviction, be subject to a forfeiture of not less than twenty-five dollars (\$25) or more than one thousand dollars (\$1,000) and the costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, such imprisonment not to exceed ninety (90) days. Each day of violation of this Section shall constitute a separate offense.

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In addition to the foregoing, if the nuisance is not abated, removed and destroyed within the time provided or as so extended or if the owner or occupant cannot be found, the Village Forester may, subject to the direction of the Village Board, proceed under Section 27.09 Wisconsin Statutes, to cause the abatement or removal of such public nuisance. The entire cost of abating, removing and destroying such public nuisance shall be billed to and collected from the owner of the property where the nuisance was located and if said costs are not paid within thirty (30) days after billing, then the cost shall be reported to the Village Clerk who shall cause such cost to be assessed against the real estate as a special charge for current services pursuant to the procedure set forth in Section 66.0627 Wisconsin Statutes and the same shall be collected in all respects like other Village taxes upon real estate.

(7) INTERFERENCE WITH VILLAGE FORESTER OR EMPLOYEES. It shall be unlawful for any person, firm or corporation to prevent, delay or interfere or cause or authorize or procure any interference or delay with the Village Forester or any of the Village Forester's employees, agents or servants while they are engaged in and about the work herein specified.