

Chapter 13

TERRACES, PARKS & URBAN FORESTS

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13.01 Tree Planting Regulations: Village Tree Board.

(1) Definitions.

(a) Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.

(b) Park Trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the village, or to which the public has free access as a park.

(2) Creation and Establishment of a Village Tree Board. There is hereby created and established a Village Tree Board for the Village of North Fond du Lac which shall consist of five members, citizens, residents and employees of this village who shall be appointed by the village president with the approval of the village board.

(a) Term of Office. The term of the five persons to be appointed by the village president shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(b) Compensation. Members of the board shall serve without compensation.

(c) Duties and Responsibilities. It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the village board and upon their acceptance and approval shall constitute the official comprehensive village tree plan for the Village of North Fond du Lac, State of Wisconsin. The board, when requested by the village board, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

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

(3) Street Tree Species to be Planted. The village arborist creates the official street tree species for the Village of North Fond du Lac, Wisconsin. No species other than those recommended by the village arborist may be planted as street trees without written permission of the Village Tree Board. The Director of Public Works or his designee shall cause the removal of any tree planted in violation of this section.

(a) Spacing. The spacing of street trees will be in accordance with the three species size classes listed in section 7 of this ordinance, and not trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

(b) Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

(c) Distance from Street Corners and Fireplugs. No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersection curbs or curb lines. No street tree shall be planted closer than 10 feet of any fireplug.

(d) Utilities. No street trees other than those species listed as small trees in Section (3) of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

(4) Public Tree Care. The village shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(a) The Village Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which be reason of its nature is injurious to sewers, electric power lines, gas lines, water line, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section selection and location of said trees is in accordance with Section 7 through 11 of this ordinance.

(b) Tree Topping. It shall be unlawful as a normal practice for any person, firm, or village department to top any street tree, park tree, or other tree on public property. Topping is defined as the sever cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Village Tree Board.

(c) Pruning Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a

menace to the safety of the public. The village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

(d) Dead or Diseased Tree Removal and Prohibited Trees on Private Property. The village shall have the right to cause the removal of any dead or diseased trees on private property within the village, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the village. The Village Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service notice. In the event of failure of owners to comply with such provisions, the village shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

(e) Cottonwood and Box Elder Trees Prohibited. No person shall plant within the village any female tree of the species *Populus Deltoides*, commonly called "Cottonwood", or any tree commonly called the seed-bearing "Box Elder: or *Acernegundo*.

(f) Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(g) No person shall break, injure or harm in any manner any tree planted in any highway or street or public right of way in the village.

(5) Interference with the Village Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

(6) Arborists License and Bond. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the village without first applying for and procuring a license. The license fee shall be as set from time to time by resolution of the village board; provided however, that no license shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(7) Review by Village Board. The village board shall have the right to review the conduct, acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Village Board who may hear the matter and make final decision.

13.02 Tree Trimming and Sanitation.

(1) TREES TO BE KEPT TRIMMED. Trees standing in and upon any public street or parkway or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owners or occupants of the abutting property on or in front of which the trees are growing so that the lowest

branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.

(2) HAZARDOUS AND INFECTED TREES. Any tree or part thereof, whether dead or alive, which the director finds to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs, growing within the village or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located.

(a) Any diseased or hazardous trees located within the right-of-way of any public street, highway, alley, park or other public property, shall be removed, trimmed or treated by the village.

(b) Any diseased or hazardous trees located on private property, shall be removed, trimmed or treated by the owner.

1. The director shall give written notice to said owner to remedy the situation, which shall be served personally or posted upon the affected tree.

2. The notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours, nor more than fourteen (14) days, as determined by the director on the basis of the seriousness of the condition of the tree or the danger to the public.

3. If the owner shall fail to remove, treat or trim said tree within the time limited, the director shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the clerk, who shall enter such cost as a special charge against the property.

(3) COTTONWOOD AND BOX ELDER TREES PROHIBITED.

(a) No person shall plant within the village any female tree of the species *Populus Deltoides*, commonly called "Cottonwood", or any tree commonly called the seed-bearing "Box Elder" or *Acer negundo* which may now or hereafter become infested with box elder bugs.

(b) Any person planting the aforementioned trees after the date of the adoption of this ordinance shall cause the same to be removed. If any owner shall fail to remove any such tree within 30 days after receiving written notice from the director of public works or the director's agent, the director shall cause the removal of such tree and report the full cost thereof to the village clerk who shall place the charge upon the next tax roll as a special charge against the premises.

(4) PLANTING OF CERTAIN TREES RESTRICTED. No person shall plant within the village any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Willow or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the village unless he shall first secure written permission from the director or the director's designee, who shall not approve such planting if in the director's opinion, the tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system.

1. The village owns the terrace and reserves the right to make final tree selections prior to a

homeowner planting a terrace tree.

2. The director shall cause the removal of any tree planted in violation of this subsection.

(5) TREES PROTECTED.

(a) No person shall break or injure any tree planted in any highway or street or public right of way in the village. No person shall pour salt water or any harmful substance on any public street in such places as to injure any tree, shrub or flowers planted or growing therein.

(b) No person shall place or maintain upon the ground any stone, cement, lumber or other substance or material which may impede the free passage of water and air to any tree or shrub in any public street or way, in said village.

(c) No person shall attach any electric insulator or any device for the holding of any electric wire or any wire to any tree growing or planted upon or in any public street or way in said village.

(d) No person shall fasten any horse or other animal to any tree in any public street or way, in the village nor shall any such person cause or permit a horse or any animal to stand so that the horse or animal can injure any such tree, shrub or flower.

13.03 Terrace Tree Planting.

(1) Terrace Trees shall be planted in accordance with sections 13.02(3) and (4).

(2) The location of the trees planted on any terrace shall be determined by the director or his agent, and no tree shall be planted nearer than 25' from the intersection of a street right-of-way line.

13.04 Park Property Protected. It shall be unlawful for any person to cut, mar or deface in any way, trees, posts, benches, or any other property situated within the park grounds in the village and it shall be unlawful for any person to trample, cut, take away or in any manner destroy or damage plants, flower beds, shrubs or flowers, located or situated in such park or for any person to ride any horse or vehicle upon any part of said park grounds, except in the gravel roadway or other maintained roadway, unless permission be first given by a duly authorized agent or officer of the village.

(1) This section shall not apply to any circus animal, amusement ride properly permitted under section 5.13, or to any pony or horse used for the sole purpose of cultivating gardens or other agricultural land located within the village limits.

13.05 Park Regulations.

(1) **APPLICATIONS, RESERVATIONS AND DEPOSITS.** Reservations for group gatherings using park facilities shall be made in the clerk's office. A specified deposit shall be made prior to the date of the event, and a specified portion of that deposit may be returned to the group, after the event, if the park facilities are found to be clean and orderly.

(2) **SPECIAL CLASS "B" LICENSES.** All special class "B" license applications for events to be held in the village park and recreation system must be completed and returned to the clerk's

office at least three (3) days prior to the date of the event. There will be no special class "B" liquor licenses issued for Le Mieux Park

(3) CURFEWS.

(a) *Le Mieux Park and Optimist Park* will be closed to all activities daily between the hours of 10:00 p.m. - 6:00 a.m.

(b) *Village Park* will be closed to all activities daily between the hours of 11:00 p.m. - 6:00 a.m. Children under 18 years of age, who attend events at the Village Park after 10:00 P.M. must be accompanied by a responsible adult.

(4) PETS. No pets are allowed in village parks or recreational facilities.

(5) AUTHORITY TO CLOSE PARKS. The director or his agent shall have the authority to close any park to the public if it is wet or unsuitable for public use.

13.25 Penalty. In addition to penalties provided by Wisconsin State Statute or other provisions of this code, any person who shall violate any provision of this chapter or regulation made hereunder shall be subject to the maximum penalty prescribed by statute or by section 24.05 of this code.