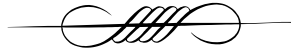


# Chapter 19

## TREES & SHRUBS



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**19.01 Statement of Policy and Applicability of Chapter.** It is the policy of the Village of Shorewood Hills to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public and terrace areas and of the Village to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of the trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the Village against the spread of disease, insects or pests.

**(1) POWER TO REGULATE TREES AND SHRUBS** (a) The Village Board has empowered the Forester/Horticulturist to plant, transplant, remove, trim, treat and otherwise care for and protect all trees, shrubs and plants on all public lands, all to insure public safety and to preserve and enhance the beauty of such public lands.

(b) Public lands under the jurisdiction of the Forester/Horticulturist includes, but is not limited to, all lands within the lines of all public streets and alleys in the Village, more specifically the terrace strip between the lot line and curb or improved portion of any public street or alley.

(c) The Forester/Horticulturist is further empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the Village of Shorewood Hills.

**19.02 Definitions** Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

**(1) PERSON** Person, firm, association or corporation.

**(2) PUBLIC AREAS** All public parks and other lands owned, controlled or leased by the Village except the terrace areas.

**(3) PUBLIC TREES AND SHRUBS** All trees and shrubs located or to be planted in

or upon public areas.

(4) PUBLIC NUISANCE Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infected with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.

(5) BOULEVARD OR TERRACE AREAS The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, curb or gutter, the road right-of-way shall be deemed the terrace for the purposes of this Chapter. "Boulevard" shall have the same meaning as "terrace."

(6) SHRUBS Any woody vegetation or a woody plant having multiple stems and generally bearing foliage from the ground up.

(7) TREE Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.

(8) EVERGREEN TREE. Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

**19.03 Elm Trees Infected with Dutch Elm Disease or Oak Trees Infected with Oak Wilt Disease a Nuisance.**

(1) PUBLIC NUISANCES DECLARED (a) The Board of Trustees of the Village of Shorewood Hills having determined that the health of the elm trees within the Village of Shorewood Hills is threatened by a fatal disease known as Dutch elm disease *Ceratocystis Ulmi* (Buisman) hereby declares the following to be a public nuisance:

1. Any living or standing elm tree or

part thereof infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles *Scolytus mulistriatus* (Marsh.) or *Hylargophinus rufipes* (Eichh.)

2. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(b) The Board of Trustees of the Village of Shorewood Hills having determined that the health of oak trees within the Village of Shorewood Hills is threatened by a fatal disease known as oak wilt disease (*Ceratocystis fagacearum*) hereby declares the following to be a public nuisance:

1. Any living or standing oak tree or part thereof infected with the oak wilt disease fungus.

2. Any dead oak tree or part thereof, including logs, branches, stumps, firewood or other oak material from which the bark has not been removed.

(2) NUISANCES PROHIBITED No person, firm, or corporation shall permit any public nuisances as defined in Subsection (1) of this ordinance to remain on any premises owned or controlled by him within the Village of Shorewood Hills.

(3) INSPECTION The Village Forester shall inspect or cause to be inspected all premises and places within the Village to determine whether any public nuisance as defined in Subsection (1) of this ordinance exists thereon and shall also inspect or cause to be inspected any elm tree or oak tree reported or suspected to be infected with the diseases defined in Subsection (1) of this ordinance or any elm bark or oak bark bearing material reported or suspected to be

infested with the diseases or vectors listed in Subsection (1) of this ordinance.

**(4) ABATEMENT OF NUISANCES (a)**

If the Village Forester upon inspection or examination in person or by some qualified person acting for her/him, shall determine that any public nuisance as herein defined exists in or upon any public street, alley, park or other public place, including the terrace strip between curb and lot line within the Village of Shorewood Hills, s/he shall:

1. Immediately cause it to be removed and the wood to be debarked, covered or chipped, or
2. Otherwise abate the nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus, or the spread of oak wilt disease.

(b) If the Village Forester shall determine within reasonable certainty that any public nuisance as herein defined exists in or upon private premises, s/he shall report the existence of such nuisance to the Parks Committee; the Committee shall, if it determines that such nuisance exists, cause notice to be issued to the owner of the lot or parcel of land on which such tree(s) stand or her/his agent, or if neither is known and there is a tenant occupying said property then to such tenant, that the Parks Committee proposes ordering the removal and destruction of such tree(s) as nuisances under this ordinance. The notice shall specify the general location and number of such tree(s) on the lot or parcel of land, and that a hearing will be held before said Parks Committee for the purpose of ordering the removal and destruction of such tree(s). The notice to the owner, agent or tenant of the property shall be issued at least two (2)

weeks prior to the hearing and shall indicate the date, time, and location where the hearing will be held before the Parks Committee. After such hearing the Village Forester, subject to the direction of the Board, shall abandon the work or proceed with it as s/he believes the best interests of the public require. Once the Parks Committee has ordered the removal and destruction of such tree(s) as nuisances under this ordinance, in lieu of such removal by the Village Forester, the Village Forester may issue a written notice to the owner, agent or occupant of the property to abate such nuisance within thirty (30) days of the receipt of said notice. If such owner, agent or occupant does not abate said nuisance within the time limited, the Village Forester may cause the same to be abated. No damages shall be awarded to the owner for the destruction of any elm trees, elm wood, oak trees or oak wood or any part thereof pursuant to this section.

**(5) SPRAYING OF ELM TREES**

Whenever it is determined by the Board of Trustees of the Village of Shorewood Hills that because of the prevalence or threatened danger of Dutch elm disease to the elm trees in the Village of Shorewood Hills, or a part thereof, that it is necessary to embark upon a program of tree care and protection of elm trees in the Village, or a part thereof, by a system of spraying, the cost of which spraying shall be chargeable to and assessed upon the owners of lots or parcels of land upon which are located any elm trees, the Parks Committee shall cause notice of a public hearing on the proposed tree care program and of the proposed assessments therefore, to be published in the official newspaper once a week at least ten (10) days before the date of such hearing and by

posting of such notices in at least four (4) conspicuous places within the Village and mailing a copy thereof to each property owner, of the proposed assessment to be made against property owners for said spraying. Such notice shall specify that on a certain date a hearing will be held by the Parks Committee to determine whether the spraying shall be performed at the cost of the respective property owners at which hearing anyone interested will be heard.

**(6) ASSESSMENT OF COSTS OF ABATEMENT AND SPRAYING** (a) The entire costs of abating any public nuisance as defined in Subsection (1) of this ordinance, or of spraying any elm tree or part thereof as required by Subsection (5) hereof, may be chargeable to and assessed against the parcel or lot upon which such tree stands. The cost of abating any such nuisance or spraying any elm tree, or part thereof, which is located in or upon any park or public grounds, boulevards or public way shall be borne by the Village.

(b) The Village Forester shall keep strict account of the costs of work done under this ordinance for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amount chargeable to each. The Village Clerk shall include in her/his report to the Board of Trustees the aggregate amounts chargeable to each lot or parcel as recorded by her/him and such amounts shall be levied and assessed against such parcels or lots in the same manner as other special taxes. Before such assessments are entered on the tax roll the Board of Trustees shall hold a public hearing on the proposed assessments and shall give advance notice thereof not less than fourteen (14) days before the time set for such hearing by

publication in the official newspaper or posting in at least four (4) conspicuous places.

**(7) TRANSPORTING OF WOOD PROHIBITED** No person, firm or corporation shall transport within the Village of Shorewood Hills any bark bearing elm wood or diseased oak wood or material without first securing the written permission of the Village Forester.

**(8) REMOVAL OR PRUNING OF OAK TREES PROHIBITED** No person, firm or corporation shall remove, trim or prune any oak tree or portion thereof between April 15 and October 15 without first securing the written permission of the Village Forester.

**(9) INTERFERENCE WITH VILLAGE FORESTER PROHIBITED** No person, firm or corporation shall prevent, delay or interfere with the Village Forester or any of her/his agents or employees while they are engaged in the performance of duties imposed by this ordinance.

**(10) PENALTY** Any person, firm, or corporation which shall violate any of the provisions of this ordinance shall upon conviction thereof be subject to a forfeiture of not more than \$200 and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

**(11) SEPARABILITY** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase hereof. The Board of Trustees of the Village of Shorewood Hills hereby declare that they would have passed this ordinance and each section,

subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

**19.04 Planting of Trees and Shrubs (1)**

**RESPONSIBILITY** The size and genus, species and variety of trees and shrubs requested to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the Forester/Horticulturist for approval before commencement of such work. All planting, maintenance and trimming of trees in terraces shall be the responsibility of the Forester/Horticulturist. Residents need to get permission from the Forester/Horticulturist to take on the tasks of planting, maintenance and trimming of trees in terraces, tree banks and boulevards.

**(2) TREE SIZE** The Forester/Horticulturist shall prepare and maintain a list of trees suitable to plant near power lines. Trees that grow in excess of eighteen (18) feet will not be planted under power lines. Size definitions: (a) Large trees: Over forty (40) feet, (b)Medium trees: Twenty-five (25) to forty (40) feet (c) Small trees: Fifteen (15) to twenty-five (25) feet.

**(3) PLANTING SIZE** (a) All large or medium trees, when planted, shall be at least eight (8) feet high and have a minimum trunk diameter of one and one-half (1½) inches at a point six (6) inches above ground. (b)All small trees, when planted, shall be at least five (5) feet high and have five (5) or more branches.

**(4) LOCATION** (a) There shall be a distance of twenty (20) to thirty (30) feet between terrace area trees depending upon

the size of the tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of the curb.

(b)In terrace areas less than three (3) feet wide, planting will not be permitted.

(c) Terrace trees must be planted at least eight (8) feet from old stumps, at least five (5) feet from driveways, at least fifteen (15) feet from an intersection and at least five (5) feet from water shutoff valves.

(d) Evergreen trees or shrubs shall not be planted in a terrace area.

**(5)UNLAWFULLY PLANTED TREES** Trees, shrubs and herbaceous plants planted within any terrace or planting easement without authorization and approval of the Forester/Horticulturist may be removed. The Forester/Horticulturist shall notify the abutting owner in writing, listing the unlawfully planted trees, shrubs or herbaceous plants, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the Village may remove such trees, shrubs or herbaceous plants and assess the costs thereof to the owner.

**(6) PROHIBITED TREES AND SHRUBS.** The following list of species will not be permitted to be planted anywhere within the Village boundaries. Existing trees and shrubs of these species will be dealt with on a case by case basis with the exception of Buckthorn and Honeysuckle, which will be actively removed from all Village lands.

- |              |                             |
|--------------|-----------------------------|
| Buckthorn    | <i>Rhamnus cathartica</i>   |
| Siberian Elm | <i>Ulmus pumila</i>         |
| Black Locust | <i>Robinia pseudoacacia</i> |

Eastern Cottonwood	<i>Populus deltooides</i>
Boxelder	<i>Acer negundo</i>
Norway Maple	<i>Acer platanoides</i>
Honeysuckle	<i>Lonicera tatarica</i>

Forester/Horticulturist unless they pose a hazard.

(b) When removing a tree or shrub with permission the disposal of wood, twigs and leaves is the responsibility of the contractor or the resident. In addition the stump must be ground to a depth of at least nine (9) inches below grade.

**19.05 Trimming (1)** Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or ally provide a clearance of not less than fourteen (14) feet. The Forester/Horticulturist may waive the provisions of this Section for newly planted trees if it determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(2) The necessity of pruning will be determined by the Forester/Horticulturist.

(3) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing on private property in the Village, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

**19.06 Removal of Trees and Stumps (1) REMOVAL STANDARDS**

(a) Removal of trees and shrubs from the terrace or any public area requires the permission of the Forester/Horticulturist. Permission will not be granted for removal of trees and shrubs deemed healthy by the

**19.07 Prohibited Acts (1)**

**DAMAGE TO PUBLIC TREES.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without permission from the Forester/Horticulturist in the case of a terrace area tree or shrub, public tree or shrub, perform or cause to be performed by others any of the following acts: (a) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.

(b) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

(c) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base or in a cavity of the same.

(d) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air water and fertilizer.

(e) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the Village may attach temporary “no parking” signs to

trees when necessary in conjunction with street improvement work, tree maintenance work or parades.

(f) Except with permission from the Forester/Horticulturist to place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.

**19.08 Construction Requirements Concerning Existing Trees (1) GENERAL**

**REQUIREMENTS:** Any person engaged in construction, remodeling or land clearing shall: (a) Consult with the Village Forester before any work is started on the premises to discuss construction being done and equipment needed for the particular project in regards to any terrace trees that could possibly be affected.

(b) Clear vegetation within the drip line of terrace trees only by hand or with the use of light rubber-wheeled equipment, which will not damage tree roots; said equipment shall be a maximum of forty-eight (48) inches wide, tire to tire, with a maximum weight of 3,500 pounds. When working around Red, White and Burr Oak trees, no heavy equipment may be permitted within the drip line of said tree. (1)If use of heavy equipment within the drip line of Red, White, and Burr Oak trees is the only option for the project to continue a minimum of 4 inches of wood chips must be spread with sheets of plywood placed on top of the wood chips to form a road bed for the equipment to drive on.

(c) Utilize retaining walls and dry wells to protect any tree to be preserved from severe grade changes.

(d) Keep cutting of roots to a

minimum by careful routing of underground utilities, tunneling instead of trenching, and use of posts and pillars instead of trenching for footers and walls.

(2) PROHIBITED ACTS (a) Any encroachments, excavations, or change of the natural grade within the drip line of a tree unless it can be demonstrated to the Village Forester prior to the commencement of said activity, that the activity will not negatively impact any tree.

(b) Land clearing or the operation of heavy equipment in the vicinity of a tree without placing and maintaining a protective barrier around the drip line of the tree. The protective barrier shall be conspicuous enough and high enough to be seen easily by operators of trucks and other equipment. Protective barrier means conspicuously colored fences or like structures constructed of sturdy materials that are at least four (4) feet in height which prevent or obstruct passage.

(c) The storage or use of materials or equipment within the drip line of any tree, or attachments, other than those of a protective and non-damaging nature, to any tree.

(d) Any act to effectively destroy a terrace tree. This means to cause, suffer, allow or permit any act which will cause a tree to die or go into a period of unnatural decline within a period of one (1) year from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents or intentional fire damage to the tree permitting infection or

pest infestation, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

**(3) Remedial Measures for Tree**

Abuse: Any person that abuses a tree in violation of this article shall: (a) Undertake pruning and other remedial action such as corrective root pruning, fertilization, and soil enhancements for damage to tree roots as determined by the Village Forester, not limited to the removal of severely abused trees to protect public safety and property, and corrective pruning to improve the health and form of affected trees.

(b) Plant replacement trees if the natural habit of growth of the abused tree is destroyed. Replacement trees are not required for abused trees that are located on owner-occupied property.

(c) In cases involving mature Red, White, and Burr Oak trees that have had significant dieback or tree death arising directly from construction practices, replacement of said tree will be required and an additional fine assessed based on the computed amount from the most current version of the Guide for Plant Appraisal, published by the International Society of Arboriculture.