

## Chapter 19

# Trees, Shrubs and Community Forestry Management

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### 19.01 INTENT AND PURPOSE

- 1) A well managed community forest provides significant environmental, economic, and aesthetic value to the village, its residents and visitors, The policy of the Village of Shorewood Hills is to regulate, finance, and control the planting, removal, maintenance, and protection of trees and shrubs in or upon all public areas of the village in order to:
  - a) Preserve and enhance the beauty and general welfare of Shorewood Hills.
  - b) Promote a healthy and diverse community forest.
  - c) Eliminate and guard against dangerous conditions which may result in injury to persons using the public areas of the Village.
  - d) Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.
  - e) Guard all trees and shrubs both public and private, within the Village against the spread of disease, insects or pests.
  - f) Protect all trees and shrubs from the damaging effects of construction, alteration, or repair of utility facilities and other improvements in any public area.
  - g) Utilize our green infrastructure to obtain benefits such as reducing energy consumption, decreasing air, light, and noise pollution, increasing stormwater retention, and improving water quality.
- 2) The provisions of this ordinance shall apply to trees and shrubs presently or hereafter planted in or upon any public area; and also to trees and shrubs presently or hereafter planted in or upon any private premises which shall endanger the life, health or safety of persons or property.

### 19.02 DEFINITIONS

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

- 1) **Critical Root Area.** The transport and feeder roots located under the reach of a tree's branches. This area is defined by a circle with a radius that is 1.25 feet for every inch in stem diameter.
- 2) **Grade Changes.** Raising or lowering of the level of soil.
- 3) **Maintenance and Protection.** All operations of pruning, spraying, injecting, fertilizing, treating, bracing, cabling and cutting of any tree or shrub above or below ground.

- 4) **Person.** Person, firm, association or corporation.
- 5) **Public Areas.** All public ways, parks and other lands owned, controlled, or leased by the Village.
- 6) **Public Trees and Shrubs.** All trees and shrubs, presently or hereafter planted upon public areas.
- 7) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition and location has been declared a public nuisance under section 19.04 of this chapter.
- 8) **Public Right of Way.** Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.
- 9) **Public Ways.** All public streets, roads, boulevards, median strips, alleys, and sidewalks.
- 10) **Terrace Area.** The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, curb or gutter, the terrace area shall be deemed the area between the lot line and the edge of road.
- 11) **Shrub.** Any woody plant having multiple stems and generally bearing foliage from the ground up. Generally does not reach a height greater than twelve feet.
- 12) **Tree.** Any woody plant, generally having a singular stem or trunk un-branched at the base and bearing its foliage or crown well above ground level. Generally reaches a height of twelve feet or more.
- 13) **Trenching.** Any linear excavation for utility lines, foundation, roads, sidewalks, driveways and irrigation.
- 14) **Evergreen.** Any plant bearing foliage that persists and remains through the entire year.
- 15) **Street Tree.** Any public tree presently or hereafter located in the public right-of-way between the curb and sidewalk, or between the curbs of a median strip, or the equivalent location when no curb or sidewalk exists.
- 16) **Village.** Shall mean Village of Shorewood Hills.

### 19.03 JURISDICTION AND POWER TO REGULATE

#### 1) Authority of the Municipality

- a) The Village shall have the authority and jurisdiction to plant, prune, remove, maintain, and protect trees and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, and public properties and parks and tree planting easements as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public property.
- b) The Village shall have the right to treat or cause treatment of any diseased or infested trees on private property when such trees constitute a potential hazard to the community forest.
- c) The Village shall have the right to remove or cause the removal of any dead, dying, diseased, infested, or structurally damaged tree, or portion of tree, on private property when such tree constitutes a potential hazard to life and property within the public right-of-way or on public property or constitutes a threat to the community forest.

#### 2) Powers and Duties of Village Forester

- a) To direct, manage, supervise, and control the Village's forestry program, including the planting, pruning, removal, maintenance, and protection of all trees and shrubs in or upon all public areas of the village; to supervise parks department personnel and private contractors in the planting, pruning, removal, maintenance, and protection of said trees and shrubs.
- b) To cause the provisions of this ordinance to be enforced.
- c) To guard all trees and shrubs within the Village against the spread of plant diseases, insects or pests; to eliminate conditions that may endanger the life, health, or safety of persons or property.
- d) To use reasonable means of communication to inform the public concerning the forestry program and tree and shrub care. The Village Forester shall, upon request by the owner or occupant of private property, examine and recommend the proper care or treatment of trees or shrubs, to be effected by the owner at his expense. There shall be no charge to the owner for

the examination.

- e) To implement and direct the Community Forestry Management Plan.
- 3) **Authority to Preserve and Remove Public Trees and Shrubs.** The Village Forester shall have the authority to plant, prune, remove, maintain, and protect all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, and to protect life and property.
- 4) **Authority to Enter Private Premises.** The Village Forester or his/her authorized representatives shall have the authority to enter upon private real estate, excluding any buildings thereon, at reasonable times for the purposes of examining or taking the necessary samples of any suspected nuisance vegetation located upon or over such premises, and enforcing the provisions of this ordinance.
- 5) **Interference Prohibited.** No person shall interfere with the Village Forester or his/her authorized representative while engaged in the execution or enforcement of this ordinance.

#### 19.04 PUBLIC NUISANCE, DECLARATION, AND ABATEMENT

- 1) **The Village Board hereby declares any of the following to be a public nuisance and therefore subject to abatement pursuant to subsection (3) of this section:**
  - a) Any tree or shrub or part thereof located upon any public or private property, which by reason of its condition interferes with the use of a public area, is infected with an infectious plant disease, is infested with injurious insects or pests, is injurious to public improvements, is dead or cannot substantially support foliage, or endangers the life, health or safety of persons or property. A list of tree and shrubs diseases and pests that constitute a public nuisance will be prepared and maintained. Examples of such tree and shrub diseases and pests include, but need not be limited to, Dutch Elm Disease, Oak Wilt Disease, Emerald Ash Borer and Gypsy Moth.
- 2) **Public Nuisances Prohibited.** No person shall permit any public nuisance as defined in subsection (1) of this section to remain in or upon any premises owned or leased by that person within the Village.
- 3) **Abatement of Public Nuisances.**
  - a) **Public Areas.** Whenever the Village Forester shall find on examination that a public nuisance as herein defined exists upon any public area, he/she shall cause such nuisance tree, shrub, or part thereof to be treated, removed or otherwise abated in such a manner as to destroy or prevent the spread or continuance of the nuisance. The manner in which the nuisance shall be abated shall be determined by the Village Forester.
  - b) **Private Premises.** If the Village Forester determines with reasonable certainty upon inspection or examination that any nuisance tree or shrub as herein defined exists in or upon any private premises within the Village, he/she shall notify the owner of such premises, or his agent, in writing that said nuisance tree or shrub must be treated, removed, or otherwise abated. Said written notice shall specify the nature and exact location, the manner in which the nuisance shall be abated, and the time limited in which the nuisance shall be abated which shall not be less than fifteen (15) days after issuance of said notice unless the Village Forester shall determine that immediate action is necessary for public safety.
  - c) **Abatement by Village.** If owner of such private premises, or his/her agent, shall refuse or neglect to comply with the terms of the written notice within the time specified, the Village Forester shall cause the public nuisance to be abated and shall report the expense thereof to the Village Clerk who shall enter it as a charge against the property upon which the nuisance is

located. No damage shall be awarded to the owner for the destruction of the trees or shrubs pursuant to this section.

- 4) **Transporting of Infected Wood Restricted.** No person, firm or corporation shall bring into, or transport within, the Village any wood that has been determined to be an infectious nuisance as defined in subsection (1) of this section without first securing the written permission of the Village Forester.
- 5) **Pruning or Removing Oak Trees Prohibited.** No person, firm or corporation shall prune, remove, or wound any oak tree or portion thereof between **April 1<sup>st</sup> and October 1<sup>st</sup>** without first securing the written permission of the Village Forester. During this period if wounding occurs or if pruning is necessary in response to an emergency (storm, equipment damage), a tree wound dressing shall be applied immediately to each wound. In the case of oak removals the cut stump surface shall be immediately painted with a tree wound dressing.

#### 19.05 PLANTING OF TREES AND SHRUBS ON PUBLIC PROPERTY

- 1) **Approval Required.** No person shall plant any tree or shrub on public property, or cause such work to be done without first obtaining permission from the Village Forester.
- 2) **Power Lines.** Trees that reach a height greater than twenty-five (25) feet shall not be planted under power lines. The Village Forester shall prepare and maintain a list of trees suitable to plant under power lines
- 3) **Prohibited and Recommended Tree Species.** A list of tree and shrub species that are prohibited and recommended shall be prepared and maintained by the Village Forester and shall be available at the Village Hall.
- 4) **Unlawfully Planted Trees.** Trees, shrubs and other vegetation planted on public property without authorization and approval of the Village Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, shrubs or other vegetation, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. If the vegetation is not removed with the time specified, the Village may remove such vegetation and assess the costs thereof to the owner.

#### 19.06 Removal, Pruning, Maintenance and Protection of Public Trees

- 1) **Approval Required.** No person shall remove, prune, or provide maintenance and protection to public trees, or cause such work to be done without first obtaining written permission from the Village Forester. The proposed work should take into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways, and street lights, general character and aesthetic quality of the area in which the tree or shrub is located, and the soil conditions and physiological needs of the tree or shrub, he/she shall issue permission to the applicant.
- 2) **Street and Sidewalk Clearance.** Trees on public or private property adjacent to any street or road shall be pruned to provide a clearance of fourteen (14) feet over that street or road. Trees on public or private property shall be pruned to provide a clearance of ten (10) feet over sidewalks.
- 3) **Pruning Specifications.** All pruning of public trees and shrubs shall conform to the standards set forth in ANSI A300-1995 (or the most recent version thereof) "American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices

(Pruning)".

- 4) **Tree and Stump Removal.** Public trees that are removed with the permission of the Village Forester shall be completely removed from the site and disposed of in the proper manner. When a contractor is used to remove a public tree, it is that contractor's responsibility to clean up and dispose of the entire tree. The stump must be ground out to a depth suitable for the future planting of trees or turf. The hole shall be filled with shredded topsoil and seeded with grass seed appropriate for the site. Straw shall be laid over the topsoil and grass seed.

#### 19.07 PROHIBITED ACTS REGARDING PUBLIC TREES AND SHRUBS

- 1) **Injury to Public Trees and Shrubs Prohibited.** No person shall, without written permission from the Village Forester, do or cause to be done any of the following:
  - a) Secure, fasten, or run any rope, wire, sign, electrical installation or other device or material to, around or through any public tree or shrub except in an emergency such as a storm or accident.
  - b) Break, injure, mutilate, deface, kill, or destroy any public tree or shrub.
  - c) Top or make topping cuts on any public tree.
  - d) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any public tree or shrub.
  - e) Excavate any ditch, tunnel, or trench, or lay any drive, sidewalk or other impermeable surface within the critical root area of any public tree or shrub.
  - f) Erect, alter, repair, raze, or excavate within the critical root area of any public tree or shrub without placing suitable guards approved by the Village Forester around such trees and shrubs.
  - g) Remove any guard, stake, mulch or other device or material intended for the protection of a public tree or shrub.
  - h) Place any earth fill, rock, trash, or other device or material within the critical root area of any public tree or shrub which may compact or prevent the entry of air and water to the root zone.

#### 19.08 TREE PROTECTION DURING CONSTRUCTION

- 1) **Definitions.**
  - a) For the purposes of this section, "**public tree**" as defined in section 19.02 of this ordinance shall be extended to include any tree located on private property adjacent to a public area, with any part of the critical root area of such tree extending into the public area.
  - b) "**Construction**" shall mean building, remodeling, land clearing, installation, alteration, repair, replacement or relocation of any of the following:
    1. Any house, garage, driveway, or other surface structure.
    2. Any street, curb, sidewalk, pavement, street light, traffic signal or other surface structure.
    3. Any underground utility distribution and service facility including water pipe, sanitary and storm sewer, gas pipeline, electric power and communication wire, cable, conduit, duct and associated vaults, manholes, pull boxes; and irrigation facilities.
    4. Any overhead wire, cable and associated support structure.
- 2) **Construction Requirements Concerning Public Trees.**
  - a) No individual person, firm, partnership, association, corporation or government entity shall do or cause to be done, any construction as herein defined, where public trees and shrubs are

present without first consulting with the Village Forester.

- b)** Temporary fences shall be erected around the critical root area of public trees before construction begins and kept intact until final inspection of project.
- c)** Equipment, vehicles, fill or debris of any kind shall not be stored, parked or driven within the critical root area of a public tree to prevent soil compaction.
- d)** If equipment or vehicles must be stored or driven across the critical root area then a root buffer shall be installed prior to the work. The root buffer shall be constructed by covering the critical root area with wood chips to a minimum 6-inch depth and overlaid with quarry gravel and  $\frac{3}{4}$  inch plywood working surface or mat. The root buffer shall be maintained throughout the construction process.
- e)** Trenching or excavating within the critical root area of public trees is prohibited.
- f)** Careful hand digging or the use of a pneumatic air excavator shall be used when excavation within a public tree's critical root area is required.
- g)** Exposed roots shall be kept moist with wet burlap or wet wood chips and the exposed roots shall not remain exposed for a period of time exceeding 8 hours.
- h)** Boring or tunneling at a minimum depth of 2 feet shall be used when installing underground utilities.
- i)** Grade changes within the critical root area are prohibited.
- j)** If roots of a public tree are damaged or injured in any way, the person or contractor responsible for that damage shall make a clean cut of that damaged root within one hour of the injury with a reciprocating saw or small hand saw.
- k)** If branches or trunks are damaged or injured in any way the person or contractor responsible for that damage shall immediately contact the Village Forester to determine what corrective measures shall be taken.
- l)** All the tree protection requirements listed in this section and the costs associated with these requirements are the responsibility of the person, firm, partnership, association, corporation, or government entity that is conducting the construction.