

## **CHAPTER 13.00 URBAN FORESTRY**

- 13.01 Purpose and Intent
- 13.02 Definitions
- 13.03 Authority
- 13.04 Public Nuisance, Declaration, and Abatement
- 13.05 Appeal from Order of Tree Program Manager
- 13.06 Injury to Trees and Shrubs Prohibited
- 13.07 Moving Buildings or Structures
- 13.08 Planting, Maintenance and Removal of Public Trees and Shrubs
- 13.09 Cost of Planting, Maintaining, and Removing Trees and Shrubs
- 13.10 Rules and Regulations Regarding Trees and Shrubs in Public Rights-of-way
- 13.11 Penalty for Violation
- 13.12 Enforcement
- 13.13 Performance Evaluation of Ordinance
- 13.14 Severability

### **13.01 PURPOSE AND INTENT.**

1. This ordinance establishes policies, regulations, and standards necessary to insure that the city will continue to realize the benefits provided by its urban forest. It is hereby declared to be the policy of the Village of Jackson, Wisconsin, to regulate, finance, and control the planting, removal, maintenance, and protection of trees and shrubs upon or in all public areas of the Village order to:
  - a. Establish and maintain the maximum amount of tree cover on public and private lands in the Village;
  - b. Maintain Village trees in a healthy and non-hazardous condition through good arbor cultural practices;
  - c. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest;
  - d. Promote the conservation of Village resources;
  - e. Centralize tree management under the jurisdiction of Village personnel with necessary expertise;
  - f. Promote efficient and cost-effective management of the urban forest;
  - g. Forest community support for the local urban forestry program, and encourage good tree management on privately owned properties.
2. The provisions of this ordinance shall apply to all trees and shrubs presently or hereafter planted in or upon any public area; and also to all trees and shrubs presently or hereafter planted in or upon any private premises which will endanger the life, health or safety of persons or property.

## 13.02 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Person" shall include all individuals, firms, associations, corporations, and persons connected with such firms, associations and corporation.
2. "Village" shall mean the Village of Jackson, Wisconsin.
3. "Tree Program Manager" when used herein shall mean the appointed representative, designated for the purposes of direction, regulation, control and enforcement of this chapter.
4. "Tree Board" when used herein shall mean the Park and Recreation Committee as constituted under the code of general Ordinances of the Village.
5. "Park" the word park shall include all public parks owned by the Village having individual names.
6. "Public Right-of Way" shall include the established and legally recognized dedication for the purpose of vehicular or pedestrian travel.
7. "Public Areas" shall include all public right-of-way, boulevards, parks and other lands owned, controlled, or leased by the Village.
8. "Private Premises" refers to all lands not owned, controlled or leased by the Village.
9. "Public Nuisance" shall mean any tree or shrub or part thereof which by reason of its condition interferes with the use of any public area; or which is infected with a plant disease; or which is infested with injurious insects or pests which therein threaten public or private property, or which endangers the public health, safety and welfare.
10. "Tree" shall mean a woody plant, usually with a single stem, un-branched at the base, reaching a height of fifteen (15) feet or more.
11. "Shrub" shall mean a woody plant usually with multiple stems, branched at or near the base, reaching a height of less than fifteen (15) feet.
12. "Public Trees and Shrubs" shall mean any tree or shrub as herein defined, presently or hereafter planted in or upon any public area.
13. "Clear-Vision-Triangle" shall mean a triangle formed by the existing or proposed curb lines of two or more intersecting streets, roads, or alleys and a third line connecting specified points on those curb lines in order to provide vehicular traffic an unobstructed view at intersections.

14. “Public Utility” shall mean any person, owning or operating any pole, line, pipe or conduit located in any public area or over any public easement or right-of-way for the transmission of electricity, gas, telephone, or television service.

### **13.03 AUTHORITY.**

The care of all trees and shrubs planted or hereafter planted in the streets, highways, parks, and public areas of the Village under the authority of the Tree Board and shall be subject to rules and regulations as the Tree Board may adopt, and such Tree Board shall have the right to adopt and amend the rules and regulations as may be required, subject to Village Board approval.

1. Tree Program Manager.  
Under the jurisdiction and control of the Tree Board the Tree Program manager shall have the authority to plant, remove, maintain, and protect the 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.
2. Village Arborist.
  - a. The Village of Jackson may employ or contract with a Village Arborist, who is under the supervision of the Tree Program Manager and Tree Board (Section 27.09 Wisconsin Statutes).
  - b. Powers and Duties – The Village Arborist, as supervised and directed by the Tree Program Manager shall have the following general powers and duties.
    - 1.) Cause the provisions of this Ordinance to be enforced.
    - 2.) Prepare and submit annual budgets to the Tree Program Manager, and Tree Board, and the Village Board.
    - 3.) Assist in the scheduling and supervision of Village forestry related operations and personnel.
    - 4.) Perform systematic and routine surveillance of the right-of-way and park tree populations.
    - 5.) Institute and develop communicable disease prevention and abatement programs.
    - 6.) Institute and direct right-of-way tree planting program.
    - 7.) Develop public education awareness programs.
    - 8.) Administer and oversee all forestry related service contracts that the Village may enter into.

- 9.) Establish, control and regulate standards of tree care, including planting, pruning, removal and spraying of all trees and shrubs in and upon public area.
- 10.) Perform such other powers and duties as are authorized by the Laws of Wisconsin, particularly Section 27.09 thereof, and by Jackson Village Code, and by direction of the Tree Program Manager and Tree Board.

#### **13.04 PUBLIC NUISANCE, DECLARATION AND ABATEMENT.**

1. Declaration of Nuisance.

Any tree or shrub or part thereof growing on private or public property which is: interfering with the use of any public area; infected with an infectious plant disease; or which is infested with injurious insects or pests; or endangers the life, health, or safety of persons or property is declared a public nuisance.

2. Abatement of Nuisance.

a. Trees and Shrubs on Public Areas. If the Tree Program Manager shall determine, with reasonable certainty, upon inspection or examination that any nuisance tree or shrub, as herein defined, exists in or upon any public area in the City, he shall immediately cause it to be treated, trimmed, removed, or otherwise abated in such a manner as to destroy or prevent the spread of the nuisance.

b. Trees and Shrubs on Private Premises. If the Tree program Manger shall determine with reasonable certainty upon inspection or examination that any nuisance shrub or tree, as herein defined, exists in or upon any private premises, he shall in writing notify the owner or tenant having charge of such premises. Within thirty (30) days after the issuance of said notice, said person shall cause the treatment, trimming, or removal and destruction of said nuisance tree or shrub as directed in the written notice. No damage shall be awarded the owner for the destruction of trees or shrubs destroyed pursuant to this chapter. In case the owner or the tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice within thirty (30) days after receiving said notice, the Tree Program Manager shall cause the removal, treatment or trimming of said nuisance tree or shrub. The expense thereof shall be a charge upon the real property of which said tree or shrub is located pursuant to Section 27.09 (4), (5), (6), and (7) Wisconsin Statutes.

3. Authority to Enter Private Premises. The Tree Program Manager shall have the authority to enter upon private real estate, excluding any building thereon, at reasonable time for the purpose of examining or taking the necessary samples of any suspected nuisance tree or shrub located over such premises, and enforcing the provisions of this Ordinance. All nuisance trees and shrubs to be removed may be appropriately marked by the Tree Program Manager.

4. Interference Prohibited. No person shall interfere with the Tree Program Manager or his authorized representatives while engaged in the execution or enforcement of this Ordinance.

### **13.05 APPEAL FROM ORDER OF TREE PROGRAM MANAGER.**

A person who receives an order from the Tree Program Manager and objects to all or part thereof, may, within eight (8) days of receipt thereof, notify the Tree Board and the Tree Program Manager in writing, of the nature of the objection and request a hearing thereon within forty-five (45) days of the receipt of such notice of appeal, a Tree Board shall schedule a hearing to hear the objection. The hearing shall be held within eight (8) days (Public Hearing?/Class Notice?) of notice to appellant. The Tree Program manager shall be present at such hearing. The appellant is entitled to representation by counsel. Within eight (8) days after such hearing the Tree Board shall, in writing, notify the appellant and the Tree Program Manager of its decision. The Tree Board may affirm, cancel, or modify the order, in its direction, to best conform such order to the intent of this Ordinance. The decision of the Tree Board may be appealed to the Village Board or the Zoning Board of Appeals.

### **13.06 INJURY TO TREES AND SHRUBS PROHIBITED.**

No person shall, without the consent of the owner for a private tree or shrub or without a written permit from the Tree Program Manager for a public tree or shrub, do or cause to be done by others any of the following acts:

1. Secure, fasten, nail or run any rope, wire, sign, or other materials around, into, or through a tree or shrub, except in emergencies such as storms or accidents.
2. 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.
3. Permit any toxic chemical, gas, smoke, salt brine, oil, or other injurious substance to seep, drain or be emptied upon or about any tree or shrub.
4. Excavate any ditch, tunnel or trench or lay any drive a radius of ten (10) feet from any tree or shrub except by those public utilities under the direction of the Director of Public Works, unless otherwise noted in contracts permitting the excavation and construction of public utilities, streets, sidewalks, bicycle and pedestrian trails, and drainage ways.
5. Erect, alter, repair, raze or excavate without placing suitable guards as approved by the Tree Program Manager around all public trees or shrubs which may be injured by such operations.
6. Remove any guard, stake or other device or material intended to protect 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 or fertilizer.

### **13.07 MOVING BUILDINGS OR STRUCTURES.**

When a permit is obtained to move over-height or over-width structures or objects, the Tree Program Manager shall assist in advising the carrier regarding trees and shrubs on intended routes. Any damage done to trees and shrubs in the process of such a move shall be the liability of the carrier.

### **13.08 PLANTING, MAINTENANCE AND REMOVAL OF PUBLIC TREES AND SHRUBS.**

1. Permit requirements and Conditions.
  - a. Except on order of the Tree Program Manager, no person shall plant, remove, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a tree or shrub in the public right-of-way or any public area or cause such act to be done by others without first obtaining a written permit for such work from the Tree Program Manager as herein provided.
  - b. If the Tree Program Manager determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this section taking into account the safety, health and welfare of the public, location of the utilities, public bike paths, driveways, streetlights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.
  - c. Inspection permits shall be issued by the Tree Program Manager on a standard form and shall include a description of the work to be done and shall specify the genus, species, variety, size, nursery grade, and location of trees and shrubs to be planted, if any. Any work done under such permit shall be performed in strict compliance with the terms thereof.
2. Permits to Public Utilities.
  - a. Whenever a permit is issued under this section to a public utility to remove, trim, prune, cut, disturb, alter or do surgery on any public tree or shrub, the Tree Program Manager shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit, and the expense of such inspection or supervision shall be charged to the utility at the Tree Program Manager's current rate of pay (salary & fringes).
  - b. A public utility may secure an annual working agreement with the Director of Public Works and the Tree Board which gives the Tree Program Manager, or appointed representative, the authorization to supervise and direct work done associated with trees and shrubs.

### **13.09 COST OF PLANTING, MAINTAINING AND REMOVING TREES AND SHRUBS.**

1. Clear-vision Triangle.
  - a. No tree, shrub, hedge, or other growth exceeding thirty (30) inches in height above street grade shall hereafter be planted in any clear-vision triangle. Clear-vision setback lines are hereby established as follows:
    - 1.) Across each sector between intersecting streets or highways where the grades are not separated, a clear-vision setback line shall be established by a straight line connecting 2 points on the intersection base setback lines, which points are located fifty (50) feet distance from the intersection of such base setback lines. (Illustration to be added)
    - 2.) Across each sector between the intersection of a street or highway with the railroad where the grades are not separated, a clear-vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located one hundred (100) feet from the intersection of the base set-back line and the railroad right-of-way line. Such setback lines shall be parallel to any measured at right angles to the centerline of the street or highway.
  - b. Any tree or shrub or part thereof found to be in violation of the provisions of subsection (1.) of this section shall be declared to be a nuisance and shall be subject to abatement as set forth in Section 4 Public Nuisance, Declaration and Abatement.
2. Planting in or upon public right-of-way and public areas.
  - a. The size and genus, species and variety of trees and shrubs to be planted in public areas and as part of a Village approved forestry program and the manner of planting shall be submitted to the Tree Program Manger for approval before commencement of such work.
  - b. No trees or shrubs shall be planted closer than:
    - 1.) Twenty (20) feet to a utility or street, lighting pole.
    - 2.) Five (5) feet to a fire hydrant.
    - 3.) Five (5) feet to an underground utility line.
    - 4.) Thirty-five (35) feet to a street intersection.
    - 5.) Fifteen (15) feet to a driveway or alley.

- 6.) Spacing of trees shall reflect the expected diameter of the tree canopies at maturity. Spacing shall be such so as to prevent one tree from interfering with the growth of another.
  - c. Only trees recommended or approved by the Tree Program Manager shall be permitted to be planted in Village rights-of-way.
  - d. Recommended trees for planting in the Village rights-of-way.
  - e. Newly developed subdivision. In the development of new residential subdivisions and multi-family development projects, the owner or developer shall provide a planting plan to include the number of trees planted and their proposed location and spacing standards, sizes, genus and specie, common name, and whether it is to be planted bare root or not, and shall be based on the provision of a minimum of two street trees per residential dwelling unit. The trees shall be located on all streets located within, or adjacent to, the proposed subdivision as directed by the Plan Commission. The owner shall warranty that all required street trees shall survive the initial planting season and shall survive the initial planting season and shall be in a hardy, living condition within one year of initial planting. All street trees shall be a minimum of 2-1/2" caliper when planted. (99-19)
  - f. The planting plan shall be reviewed by the Plan Commission and Tree Program Manager.
3. Pruning.
- a. Trees and shrubs standing in or upon any public right-of-way, public areas 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 alley provide a clearance of not less than thirteen and one-half (13 1/2) feet. The Tree Program Manager may waive the provisions of this section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
  - b. Clearance from sidewalk to lower branches shall not be less than eight (8) feet.
  - c. The necessity of pruning shall be determined by the Tree Program Manager or appointed representative.
  - d. Topping Prohibited. 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 severe cutting back of internodal branch parts two (2) inches or greater in diameter, thereby as to remove the normal canopy and disfigure the tree. Trees

severely damaged by storm or other causes, or certain trees under utility wires or other obstructions where standard pruning practices are impractical may be exempted from this Code at the determination of the Tree Program Manager.

- e. The Village of Jackson recognizes as acceptable standards for the pruning of trees on public property the pruning standards set forth in the National Arborist Associations (NAA) publication "Standards for Shade Tree Pruning".
- f. When the Village requires tree pruning, any tree service contractor shall have on its staff an Arborist certified by the Midwest Chapter of the International Society of Arbor Culture. This Arborist must oversee all pruning work and certify that all work meets the Villages pruning specifications. If a certified Arborist is not on the staff of the tree contractor, the Tree Program Manager must approve the tree service contractor before the work begins.

4. Removal.

In cutting down trees, the tree shall be removed with the root stump grubbed out or ground out to a depth of at least nine (9) inches below grade measured in a straight line; normal grade of sidewalk to top of curb. Surface roots beyond main stump are to be removed to a depth of five (5) inches below grade measured as a straight line; normal grade of sidewalk to top of curb. All wood debris shall be removed from the street prior to the end of each working day and all holes be filled to normal grade level with topsoil as soon as practical.

5. Preservation of Topography.

In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in raising or lowering the elevation at any point by more than one-quarter (1/4) of the number of feet by which such point is removed from the nearest property line, except with the approval of the Plan Commission and the Tree Program Manager.

### **13.11 PENALTY FOR VIOLATION.**

Any person, partnership, firm, corporation, or other legal entity who violates any provision of this Code is guilty of a misdemeanor punishable by a fine, the determination of the amount of the fine shall be determined by the Municipal Court Judge and be set by Resolution. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance. Any violation of this Code shall also constitute a public nuisance and may be enjoined and abated as provided by Section 4 of this Code.

### **13.12 ENFORCEMENT.**

The Tree Program Manager is hereby charged with the responsibility of enforcement of this Code and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to the end.

### **13.13 PERFORMANCE EVALUATION OF ORDINANCE.**

The Tree Program Manager shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this Ordinance. An annual summary and analysis of the evaluation, and recommendations for action shall be prepared at the direction of the Tree Program Manager and presented to the Tree Board. The Tree Board shall consider the report and recommendations and take actions which may include, but are not limited to, revision or amendment of this Ordinance, the adoption of other Resolutions or Ordinances, or budget recommendations.

### **3.14 SEVERABILITY.**

Should any part or provision of this Code be declared by a court of competent jurisdiction to be invalid the same shall not affect the validity of the Code as a whole or any part there-of other than the part held to be invalid.