

CHAPTER 4

TREES

4.01 PURPOSE.

It is hereby declared to be the policy of the Village of Allouez to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the Village; to promote and enhance the beauty and general welfare of the Village; to prevent damage to any public sewer or water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the Village against the spread of disease or pests. It is the intent of the Village Board that the provisions of this chapter shall apply to all trees, shrubs, or plants growing in or upon any public right-of-way or other premises owned or controlled by the Village of Allouez, and also to all trees or shrubs growing in or upon any private premises which shall threaten the lives, health, safety or welfare of the public or of the property owned or controlled by the Village of Allouez.

4.02 DEFINITIONS.

Terms used in this chapter mean as follows:

Boulevard: An island or area of land, of any length or width, in or about the center of a street, which contains grass, trees, shrubs, flowers or other vegetation and which is not surfaced or a part of the traveled portion of the street.

Public place: Any public street, public highway, public park, or any other property owned or held by the Village of Allouez within its boundaries.

Terrace: The land between the normal location of the street curbing and sidewalk, and if there be no sidewalk, the land between the normal location of the street curbing and the edge of the right-of-way.

Tree topping: The cutting back of limbs to stubs larger than three inches in diameter so as to remove the normal canopy and disfigure the tree.

4.03 CONTROL OF TREES.

The Village Board shall have full jurisdiction, authority, responsibility and control of all trees and shrubs which now or which may hereafter exist upon any public place in this Village. The Village Board is also given full jurisdiction, authority and control to issue the permits hereinafter provided for, and to exercise any and all of the power herein granted. The Village Board shall have the authority to delegate all or part of its authority to its subordinates as the Board may determine from time to time.

The Village Board shall have authority, jurisdiction, and control of trees which exist on private property only to the extent specifically allowed under Section 4.06 (B) and Section 4.08 of this code.

4.04 PROTECTION OF TREES.

A. Injuring.

It shall be unlawful for any person to remove, destroy, cut, deface, or injure any tree existing on any public place in the Village or for any person to attach any rope, wire, chain, sign or any other device to any tree on any public place in this Village.

B. Planting or Maintaining.

It shall be unlawful for any person to plant, prune, fertilize or spray any tree or shrub existing on any public place in the Village, or to authorize or cause the same to be done, without having first obtained permission from the Village Board to do so.

C. Stone or Concrete on Ground Adjacent to Tree Trunk.

It shall be unlawful for any person to place or maintain upon the ground in any public place any stone, concrete, brick 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 tree upon any public place in the Village, without first having obtained written permission from the Village Board.

D. Care of Trees During Building Operation.

It shall be unlawful for any person in charge of or responsible for the erection, alteration or removal of any building or structure in the Village to permit any tree upon any public place in the vicinity of such operation to stand without a good and sufficient guard or protection so as to prevent injury, damage or defacement to such a tree arising out of, in connection with, or by reason of, such operation. The quality of the guard or protection is to be determined by the Village.

4.05 MOVING OF TREES.

The moving of any tree from any public place in the Village made necessary by the moving of a building or structure or any other private enterprise, shall be done under the supervision of and with the written permission of the Village Board, and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions of obtaining such permission, shall deposit with the Village such sum in cash as the Village Board may determine and specify to cover all of the cost of moving or replacing such tree, if the conditions of such permission require the replacement thereof; provided, however, that in lieu of such cash deposit the Village Board may, in its discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the costs of such moving and replacement.

4.06 TREE MAINTENANCE.

- A. The Village Board through its agent the Parks, Recreation and Forestry Director, shall have the right to maintain any tree in any public place to preserve the function or beauty of such

public place in accordance with the art of good shade tree care.

The Parks, Recreation and Forestry Director shall have the authority to trim, remove, prune, spray, fertilize or otherwise treat any tree on any public place when in his/her opinion such treatment will promote the general welfare, improve the Village's appearance or alleviate any unsafe condition.

- B. The Parks, Recreation and Forestry Director shall have the authority to prune, remove, or spray any part of a tree that extends over public property though the tree itself stands on private property, when necessary, after notifying the owner or occupant with a door hanger, or a flyer placed in a door prior to doing such work, of his/her intention to do such work.

4.07 STREET TREE PLANTING PLAN.

- A. Development.

The Village Board may develop and establish a plan for the orderly planting of trees in the terraces or boulevards along Village streets to reduce conflicts between trees and other public use of streets, to facilitate care of the Village's trees, and to make Allouez a more attractive village in which to live. The plans shall designate the species of tree for each street and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, depth of setback buildings, location of street lights, safety signals and signs, existing desirable trees and any other site factors.

- B. Planting of Trees When Streets Are Widened.

When mature trees are removed for the widening of any established street, new trees will be planted provided that in the opinion of the Village Board there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of this planting is to be borne by the Village. The Village Board shall determine the location and species of each tree to be planted.

- C. New Streets.

- (1) Where new streets are constructed, following the installation of curbing, the Village Board shall cause trees to be planted in the terraces or boulevards of such streets in the proper season. The number and location of each tree, the species and size of stock, are to be determined by the Village Board. Except as provided in paragraph 2 of this subsection, the cost of planting in terraces shall be assessed against each lot or parcel of adjacent property in the same manner as other special assessments; the cost of planting in boulevards in any block shall be assessed against all lots or parcels that abut on the street in that block in which the boulevard is located in the same proportion that the front footage of each lot or parcel bears to the total front footage of all lots or parcels that abut on said street in that block.

- (2) Where the new street is in a subdivision, the final plat of which is recorded in the office of the Register of Deeds after May 8, 1964, the subdivider shall plant, or cause to be planted, in the terraces or boulevards of the streets of said plat, those trees which the Village Board shall require. The Board shall determine the number, location and species of each tree and the size of stock. The cost of planting shall be borne by the subdivider, and the subdivider shall, at his cost, replace any tree planted in accordance with this subsection which does not survive a period of 5 years. The Village Board shall not approve the final plat of any subdivision unless the subdivider shall, as a condition to obtaining such approval, deposit with the village for 5 years such sum in cash as the Village Board may determine and specify to cover all the cost of said planting or replanting; if the subdivider does not plant trees in accordance with the requirements as determined by the Village Board, or does not replace any tree which does not survive for a period of 5 years, the Village Board shall have authority to plant, or cause to be planted, such trees, or replacement trees, and the cost thereof shall be made from the cash deposit, as a forfeiture; provided, however, that in lieu of such cash deposit, the Village Board may, in its discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such planting and replanting.

D. Planting Along Established Streets.

When, in the opinion of the Village Board, the terraces or boulevards of any established street can be improved by planned tree planting, or when the number of trees in any terrace or boulevard has become so few as a result of normal removal or other cause, the Village Board may plant or cause to be planted such trees in the terraces or boulevards as they deem necessary. The Village Board may remove, or cause to be removed, those existing trees which in its opinion would conflict with the new planting and replanting of terraces or boulevards of such streets; provided, however, that the Village Board shall not plant any new trees or remove any existing trees along any established street unless there has been a public hearing on the proposed planting or removal, and at least 15 days but not more than 20 days prior to such hearing notice of the hearing specifying the exact purpose thereof shall have been posted in 3 conspicuous public places in the village and published once in a newspaper having general circulation in the village. The cost of the removal of existing trees shall be borne by the village. The cost of replanting in the terraces shall be assessed against the owners of adjacent property in the same manner as other special assessments. The cost of replanting in boulevards in any block shall be assessed against all lots or parcels that abut on the street in that block in which the boulevard is located in the same proportion that the front footage of each lot or parcel bears to the total front footage of all lots or parcels that abut on said street in that block. The Village Board will replace any trees planted under this provision which do not survive a period of 5 years and the cost of replacement shall be borne by the Village.

- E. Should any owner of adjacent property desire to plant a tree on any public place, written permission designating the number, species, location and size of the tree shall be obtained by the Village Board. The cost of such planting shall be borne by the property owner.

4.08 DUTCH ELM DISEASE CONTROL.

A. Nuisance.

Whereas the health of the elm trees within the Village of Allouez is threatened by a disease known as Dutch Elm disease, the following are hereby declared 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, known to be vectors of the disease.
- (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 or sprayed with an effective elm bark beetle insecticide.

B. Nuisance Prohibited.

No person shall permit any public nuisance as defined above in this section to remain on any premises owned or controlled by him within the Village of Allouez.

C. Inspections.

The Village Board shall cause to be inspected any elm tree reported or suspected to be infected with the Dutch Elm Disease and/or any elm bark bearing material reported or suspected to be infected with elm bark beetles.

D. Public Property, Infected Tree.

If the Village, upon inspection and examination, shall determine that any public nuisance as defined herein exists on any public place within the Village of Allouez, it shall immediately cause it to be removed and treated in such a manner as to prevent, as fully as possible, the spread of Dutch Elm disease or vectors known to carry such disease.

E. Private Property, Infected Tree.

If the Village shall determine that any public nuisance as defined herein exists on private property and that the danger to other elm trees within the village is imminent, it shall immediately serve upon the owner of such property a written notice to abate such nuisance within 60 days of the service of said notice. If such owner does not abate said nuisance within the time limited, the Village Board shall cause the same to be abated and full costs of such abatement shall be assessed against the property. No damage shall be awarded to the owner for the destruction of any elm tree, elm wood, or any part thereof pursuant to this section.

F. Assessing Costs.

The Village Clerk-Treasurer shall keep an account of the cost of work done under this chapter, for which assessments are to be made, stating and certifying the description of the land, lots or parcels of land and the amount chargeable to each.

G. Preventive Measures.

The Village Board shall remove from any public place any elm tree which is in apparent poor vigor and particularly susceptible to disease. It shall further engage in a sanitation program in which all dead and dying parts are removed from those elms growing in any public place and which in its opinion are considered high value trees.

4.09 ENFORCEMENT.

No person shall prevent or interfere with the Village Board or any of its agents or employees while they are engaged in the performance of duties imposed by this chapter.

4.10 SICK OR DANGEROUS TREES.

A. Nuisance.

The following are hereby declared to be a public nuisance:

- (1) Any tree, shrub, plant or other vegetation, either on private or public premises, which is infected with injurious insects or plant diseases, or which by reason of the ravages of age, the nature of its growth or its general condition, endangers or may endanger the public, or is injurious or threatens injury to sewers or other public improvements.
- (2) Any living or dead trees, or any parts thereof, which are infected by or which harbor any tree or other plant diseases, including but not limited to oak wilt or oak blight.

B. Nuisance Prohibited.

No person shall allow or permit any public nuisance as herein above defined to remain on any premises owned or controlled by him within the Village of Allouez.

C. Infected or Dangerous Tree.

If the Village shall determine that any public nuisance, as herein defined, exists on private property, it shall cause notice to be served upon the person who owns or controls the premises upon which the tree is located of the type and nature of the nuisance and the premises involved, and that a hearing shall be held before the Code Enforcement Officer at the Village Hall at a time specified in such notice. The notice shall be served at least 14 days prior to the date of the hearing. After such hearing, the Code Enforcement Officer shall decide what, if anything, should be done to remedy the situation and be in the best interests of the public. The Village may cause written

notice to be served upon the owner or person controlling said premises to abate such notice within 30 days of the date of service of the notice, and if the nuisance shall not be abated within the time designated, the Village shall cause the nuisance to be abated and shall assess the full costs against the property. No damages shall be awarded to the owner of the property, or any other person, for the destruction of any tree, plant or other vegetation, or any part thereof, pursuant to this section.

4.11 REMOVAL OF TREES AND PLANTINGS

A. Trees and Plantings on Village Right-of-Way

- (1) All trees, shrubs, and plantings of any type, now existing or which may hereafter come into being on any Village property or right-of-way, either with or without the express authority of the Village, are hereby deemed to be the property of the Village, unless expressly authorized otherwise by the Village Board.
- (2) Trees.
 - (a) When the Village determines, pursuant to its authority under this chapter, that a tree will be removed from its right-of-way, the Village shall give ten days' prior written notification to the adjoining property owner that the tree will be removed. The Village may, but it is not required to, give such property owner the option of purchasing the tree and for the Village to replant it, upon payment to the Village of the charge set forth at paragraph B (1). If the property owner elects to purchase the tree it shall be on condition that the Village shall incur no liability as to either the quality or condition of the tree, or for any damage done to the tree or any property of the property owner during the removal and replanting, and the Village may condition the replanting on the property owner furnishing a suitable release to that effect.
 - (b) In the event that the property owner has not notified the Village in writing at least 24 hours prior to the tree's removal, that said owner wishes to purchase the tree, the property owner shall lose all rights to purchase the tree and have it replanted by the Village.
- (3) Plantings.
 - (a) When the Village determines, pursuant to its authority under this chapter, that any plantings will be removed from its right-of-way, the Village shall give ten days' prior written notification to the adjoining property owner that the plantings

will be re-moved. The Village may, but it is not required to, give such property owner the option of acquiring and of replanting the plantings himself, for which there will be no charge by the Village. If the property owner elects to acquire the planting, it shall be on the condition that the property owner shall not cause any damage to any other property of the Village, and shall fill in any excavations with topsoil and either sod the excavated area or seed it with seed approved by the Village.

- (b) In the event that the property owner has not notified the Village in writing at least 24 hours prior to the planting's removal, that said owner has exercised his option and has removed the planting, the property owner shall lose all rights to replant the planting.

B. Fees and Charges.

- (1) See Section 8.13 A for fee.

4.12 TREE TOPPING PROHIBITED.

A. General Prohibition.

It shall be unlawful for any person, firm or corporation to cause damage to the top of any tree on Village property by employing the cutting method known as "tree topping".

B. Exemptions.

Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical shall be exempt from this ordinance if it has been determined by the Village Board that compliance with this ordinance would create an unnecessary hardship or a threat to the health, safety or welfare of the public. Any request for such an exemption shall be in writing and submitted to the Village Board for determination. An exemption granted by the Village Board shall be by written resolution.

4.13 PENALTY.

Any person, firm or corporation violating any provision of this Chapter, upon conviction, shall forfeit not less than \$25.00 nor more than \$200.00 and pay the costs of prosecution; or, in the event of failure to pay such forfeiture and costs within the time set by the Court, any such person shall be committed to the Brown County Jail until such forfeiture and costs are paid, but every such commitment shall be for a definite term which shall not exceed 90 days. Each act of violation shall constitute a separate offense.