

Chapter 49

Sec. 49.01. Urban Forest Management

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Definitions

1. "Maintenance and Protection" shall include all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below ground, except such operations as are conducted by a department of the Village.

2. "Person" shall include an individual, firm, association or corporation.

3. "Public Area" shall include all public ways, parks and other lands owned or leased by the Village.

4. "Public Nuisance" shall mean any tree or shrub or part thereof which, by reason of its condition, interferes with the use of public areas; is infected with a plant disease; infested with injurious insects or pests; injurious to public improvements; or which may endanger life, health, safety or welfare of persons or property, public or private.

5. "Public Way" shall include all streets, roads, boulevards, alleys and sidewalks bound by the limits of the corresponding right-of-way.

6. "Terrace" shall be the area between the edge of the pavement or curb, or proposed curb, and the sidewalk or proposed sidewalk; also, all unpaved areas in cul de sacs.

7. "Trees and/or Shrubs" shall include all woody vegetation presently standing or hereafter planted.

49.01 (1) Purpose Applicability.

A. Intent and Purpose. It is the policy of the Village of Brooklyn to regulate, finance and control the planting, removal, maintenance and protection of trees and shrubs in or upon all public areas

and terrace areas 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 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. For additional information please refer to the adopted Village Urban Forest Management Plan.

49.01 (2) Adoption of state statutes.

Sections 27.09 and 86.03, Wis. Stats., are adopted and incorporated herein by reference
See Attached.

49.01 (3) Authority

A. The Village board may designate a municipal employee to perform the duties of Village Forester under Chapter 27, Wis. Stats., and may authorize such Forester to perform the duties and exercise the powers imposed by the Village Board by this chapter as approved by public works department and final form submitted to ordinance for codification.

B. The Forester his/her authorized representative may enter upon private property with a 48hr notice or a verbal consent from owner for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this chapter.

C. Authority to Remove Public Trees and Shrubs. The Forester shall have the authority to plant, 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 area, and to protect life and property.

D. Interference with Village Forester Prohibited. No person shall prevent, delay or interfere with the Village Forester or any of his or her agents or employees while they are engaged in the performance of duties imposed by this ordinance.

49.01 (4) Assessment of costs of abatement.

A. The entire cost of removal, disease treatment, maintenance and protection of trees on all terrace areas and public owned property, when done at the direction of the Forester shall be borne by the Village of Brooklyn.

B. The entire cost of abating any public nuisance as defined in subsection (8) of this ordinance may be chargeable to and assessed against the parcel or lot upon which such tree or material stands.

49.01 (5) Planting of trees and shrubs.

A. Purpose. Public plantings shall be under the control of the Village Forester. The Village board hereby states its determination that the planting, care and protection of the trees within the

Village is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.

B. Tree Planting Program. The Village Forester shall recommend to the Village Board a program for tree planting, care and protection for public lands. The Board shall also encourage the planting, care and protection of trees and shrubs on private premises within the Village.

C. New Subdivisions. Developer's agreement should include landscaping plan agreement on public property that includes species of trees and or shrubs approved by the Village Forester.

D. Restricted Tree Species.

1). Cottonwood and Box Elder Trees Prohibited. No person shall plant within the Village any female tree of the species *Populus Deltoides*, commonly called the "cottonwood," or any tree commonly called the seed-bearing box elder *Acer Negundo*, which may now or hereafter become infested with box elder bugs, and such trees are declared a nuisance. Any person planting any such trees on his or her premises shall cause the same to be removed. If any owner shall fail to remove any such tree within thirty (30) days after receiving written notice from the Village Forester, the Village shall cause the removal of such tree and report the full cost thereof to the Village administrator/clerk/treasurer that shall place such charge upon the next tax roll as a special charge against the premises.

2). Ash trees of the Genus *Fraxinus* which include White Ash, Green Ash, Blue Ash, and Black Ash are prohibited. No person shall plant within the Village limits any of these trees. Existing trees within the Village on public and private property will be subject to this Ordinance and the Village Emerald Ash Borer plan.

3). Planting Trees Restricted. No person shall hereafter plant any tree or shrubs in or upon any public street, parkway, terrace or other public land within the Village unless he or she shall first secure a permit from the Village Forester, who shall not approve any such planting if, in his or her 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. The Forester shall cause the removal of any tree or shrub planted in violation of this subsection.

E. It is prohibited to plant trees that reach a maximum, mature height of greater than eighteen (18) feet underneath any overhead electric wires.

1). List of Appropriate Trees. The Forester shall maintain a list of appropriate trees that are permitted to be planted underneath overhead electric wires.

2). The property owner has the responsibility to have underground utilities located before digging.

49.01 (6) Permit for Planting, Maintenance and Removal of Trees and Shrubs.

- a) Permit Required. No person except upon order of the Village Forester shall plant, remove or do major alterations as determined by the Forester on a tree or shrub in the public right-of-way terrace area or any public area or cause such act to be done by others without first obtaining a written report for such work from the Village Forester as herein provided.
- b) Permit Requirements and Conditions. If the Village Forester determines that the proposed work described in an application for a permit is necessary and in accord with the purposes of this Chapter, he or she shall issue a permit to the applicant.
- c) Permit Exemptions. No permit shall be required to cultivate, fertilize, water trees or shrubs or for work by Village personnel on public areas. No permit is necessary to plant trees inside the property line on private property.
- d) Permit Form, Expirations' and Inspections. Every permit shall be issued by the Village Forester on a standard form and shall include a description of the work to be done and shall specify the genus, species and variety, size, nursery grade and location of trees and shrubs to be planted. Any work under such permit must be performed in strict accordance with the terms thereof and the provision of this chapter. Permits issued under this section shall expire six months after date of issuance. There will be no charge for this permit.
- e) Public Utilities. 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 Village Forester 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. A public utility may secure an annual working agreement with the Village Forester's office with approval from the Village Board.

49.01 (7) Prohibited acts.

A. Damage to Public Trees. No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Village Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:

1. 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;
2. 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 of the same;
3. 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;
4. 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 tie temporary signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades;
5. Cause or encourage any fire or burning near or around any tree;

6. Excavate any ditch, tunnel, or trench, or lay any drive, sidewalk or other impermeable surface within the tree protection zone of any public tree or shrub;
7. Deposit, store, place or maintain any stone, brick, sand, concrete or other materials which may impede free passage of water, air, fertilizer to the roots of any tree growing on public property;
8. Plow, blow, shovel or pile snow in a manner that is injurious to any public tree.

49.01 (8) Public Nuisance

A. Public Nuisance declared for Ash, Elm and other diseased trees. Whereas the Village board has determined that there are many trees growing on public and private premises within the Village, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the Village, and that the health and life of Ash, Elm and other trees is threatened by destructive insects including but not limited to the Emerald Ash Borer (*Agrilus planipennis*), the Asian Long-horned Beetle (*Anoplophora glabripennis*) or Elm Bark Beetle *Scolytus multistriatus* (Marsh) or *Hylargophinus rufipes* (Eichh.) The Village board declares its intention control and prevents the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares the following to be a public nuisance:

1. Any living or standing tree or part thereof infected with Dutch Elm disease or infested with these or other destructive insects, as listed above.
2. Any dead tree or part thereof, including logs, branches, stumps or other materials infested with these or other destructive insects.
3. Any firewood or wooden packing or shipping materials infested with these or other destructive insects.

B. Nuisances Prohibited. No person shall permit any public nuisances as defined in Subsection (8) A. of this ordinance to remain on any property owned or controlled by him or her within the Village.

C. Inspection. The Village Forester shall inspect or cause to be inspected all premises and places within the Village where trees or materials are reported or suspected to be infected with diseases or insects listed in Subsection (8) A. of this ordinance. The Village Forester shall give a 48hr notice or have a verbal consent from owner before entering on premise for inspection.

49.01 (9) Abatement of Nuisances

A. Public Property. If the Village Forester upon inspection or examination in person or by some qualified person acting for him or her, shall determine that any public nuisance as herein defined exists in or upon any public property within the Village, he or she shall:

1. Immediately cause it to be revoked and the wood to be debarked, covered or chipped,
or

2. Otherwise abate the nuisance in such a manner to remedy the problem and or destroy or prevent as fully as possible the spread of diseases or insects.

B. Private Property. Any tree or part thereof, whether alive or dead, which the Village Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, shall be removed, trimmed or treated by the owner of the property. The Village Forester shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he or she can be found, a written notice to remedy the situation. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village. Such 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 Village Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim such tree within the specified time, or in the event of an emergency or immediate danger situation, the Village Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof the Village administrator/clerk/treasurer, who shall thereupon enter such cost as a special charge against the property.

C. Removal Standards. In cutting down trees located in public and terrace areas, the tree must be removed and the root stump grubbed out, or ground out to a depth of at least six inches below grade. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil within forty-eight (48) hours.

D. Private Removal. No person, firm, organization, or corporation shall plant, injure, trim, remove, or destroy any tree or shrub located in or upon any terrace or public place until a permit shall have been issued by the Village Forester, because of disease, damage, risky condition, and/or location or its location is such that substantial detriment is done to the property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

Adopted November 12, 2012