

Chapter 251

TREES AND SHRUBS

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[HISTORY: Adopted by the Village Board of the Village of Genoa City as Title 4, Ch. 2 of the 1984 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 186.

Solid waste -- See Ch. 228.

Property maintenance -- See Ch. 205.

§ 251-1. Policy and applicability.

- A.** It is the policy of the Village to regulate and establish policy for the control of 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.
- B.** The provisions of this chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

§ 251-2. Definitions.

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

CLEAR-SIGHT TRIANGLE -- A triangle formed by the curblines of two intersecting rights-of-way and a third line connecting a full-view zone at corners of streets, alleys and highways.

MAJOR ALTERATION -- Trimming a tree beyond necessary trimming to comply with this chapter.

PERSON -- A person, firm, association or corporation.

PUBLIC AREAS -- Includes all public parks and other lands owned, controlled or leased by the Village, except the terrace areas.

PUBLIC NUISANCE

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

B. Dutch Elm Disease, defined as follows:

(1) Any living or standing elm tree or part thereof infected with Dutch Elm disease fungus *Ceratocystis ulmi* (Buisman) or which harbors any of the elm bark beetle *Scolytus multistriatus* (Eich.) or *Hurgopinus rufipes* (Marsh.).

(2) Any dead elm or part thereof, including logs, branches, stumps, firewood or other elm material not buried or burned or from which the bark has not been removed.

PUBLIC TREES AND SHRUBS -- All trees and shrubs located or to be planted in or upon public areas.

SHRUBS -- Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

TERRACE AREAS -- The land between the normal location of the paved street or street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curbline shall be deemed to be a terrace for the purpose of this chapter.

TREE -- Any woody plant normally having one stem or trunk bearing its foliage or crown well above ground level to heights of 16 feet or more.

VILLAGE -- The Village of Genoa City, Wisconsin.

VILLAGE FORESTER -- The Superintendent of Public Works.

§ 251-3. Authority of Forester to enter private premises.

The Village Forester or his authorized representative may enter upon private premises at all reasonable times 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.

§ 251-4. Interference with Forester.

No person shall interfere with the Village Forester or his authorized representative while he is engaged in carrying out any work or activities authorized by this chapter.

§ 251-5. Abatement of nuisances.

- A.** Whenever the Village Forester shall find with reasonable certainty on examination or inspection that any public nuisance as defined herein exists within the Village, he shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease fungus or the insect pests or vectors known to carry such disease.
- B.** Before abating any nuisance on private premises or in any terrace strip between the lot line and the curb, the Village Forester shall proceed as follows:
 - (1)** If the Village Forester determines that danger to other elm trees from such nuisance is not imminent because of the elm dormancy, he shall make a written report of his findings to the Village Board, which shall proceed as provided in § 27.09(4), Wis. Stats.
 - (2)** If the Village Forester determines that danger to other elm trees within the Village is imminent, he shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the Village, that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 30 days from the date of such notice, unless the Forester finds that immediate action is necessary to prevent the spread of infection. If the owner fails to comply with the notice within the time limit, the Forester shall cause the abatement thereof.
- C.** No damage shall be awarded to the owner for destruction of any elm tree, elm wood, elm material or any part thereof pursuant to this chapter.

§ 251-6. Recovery of abatement costs.

- A.** The entire cost of abating any public nuisance as defined herein shall be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with § 66.0627 or 27.09, Wis. Stats. The cost of abating any such nuisance or part thereof which is located in or upon any park, parkway, terrace area, or public grounds shall be borne by the Village.
- B.** A special tax may be levied against property for cutting down and removing therefrom any elm tree infected with Dutch Elm disease. The special tax may be paid in yearly installments not exceeding four yearly installments if the property owner requests in writing the privilege of paying the special tax in installments. Interest on the deferred payments shall be at the rate of 10% on the unpaid balance.

§ 251-7. Permit for planting, maintenance and removal.

- A. Permit required.** No person, except upon order of the Village Forester, shall plant or 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 permit for such work from the Village Forester as herein provided.
- B. Permit exemptions.** No permit shall be required to cultivate, fertilize or water trees or shrubs. No permit is necessary to plant trees inside the property line.
- C. Permit requirements and conditions.** If the Village Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and streetlights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, and characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.
- D. Permit form; expiration; inspection.** 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 or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions 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. Permits to public utilities.**
- (1)** 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. The expense of such inspection or supervision shall be charged to the utility at the usual Village rate.
 - (2)** A public utility may secure an annual working agreement with the Village Forester's office which gives the Village Forester the authorization to supervise and direct work done associated with trees and shrubs.

§ 251-8. Planting requirements.

A. Planting.

- (1) The size and genus, species and variety of trees and shrubs to be planted in public areas and terrace areas and the manner of planting shall be submitted to the Village Forester for approval before commencement of such work as a part of the permit application process required in § 251-7.
- (2) There shall be a minimum distance of 25 feet and a recommended distance of 50 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 curb. In terrace areas less than three feet wide planting will not be permitted.
- (3) Pine or fir trees shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover, or other plants within terrace areas whose growth is in excess of eight inches in height above the top of the nearest curb.

B. Unlawfully planted trees. Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, 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, plants or shrubs and assess the costs thereof to the owner.

§ 251-9. Trimming.

- A.** Trees standing in and upon any public street or place, or upon any lot or land adjacent thereto, shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous and be subject to removal. The Village Forester 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 streetlight or endanger public safety.
- B.** The necessity of the pruning may be determined by the Village Forester.
- C.** Clearance from sidewalk to lower branches shall not be less than eight feet.
- D.** All cuts above one-inch diameter shall be treated with a tree wound compound.

§ 251-10. Obstruction of intersections and traffic signs.

- A. Notwithstanding any other provision of this chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the Village any hedge, tree, shrub, or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- B. It is unlawful for any person to plant, cause to grow, allow to grow, or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Village. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- C. Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the Forester shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Village to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.

§ 251-11. Removal of trees and stumps.

- A. **Hazardous, obstructive and infected trees.** 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, or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The Village Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 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 said tree within the time limit, the Village Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property, unless the tree is located in the terrace/parkway area, where the provisions of § 251-13 shall apply.
- B. **Standards for tree removal.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out or ground out to a depth of at least nine inches below grade measured in a straight line, normal grade of sidewalk to top of curb. 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 as soon as practicable.

§ 251-12. Planting of certain species restricted.

- A. Cottonwood and Box Elder trees prohibited.** No person shall plant or maintain within the Village of Genoa City any female tree of the species *Populus Deltoides*, commonly called the "Cottonwood," or any tree commonly called the seed-bearing Box Elder or *Acer Negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within 30 days after receiving written notice from the Village Forester, the Village Forester shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer, who shall place such charge upon the next tax roll as a special charge against the premises.
- B. Planting of certain trees restricted.** No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village of Genoa City unless he shall first secure written permission from the Village Forester, who shall not approve any such planting if in his opinion said 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 Village Forester shall cause the removal of any tree planted in violation of this subsection.

§ 251-13. Terrace areas.

The entire cost of planting, removal, Dutch Elm disease treatment or removal, maintenance and protection of trees and shrubs on all terrace areas in the Village shall be borne by the Village.

§ 251-14. Injury to trees and shrubs.

- A.** No person shall, without the consent of the owner in the case of a private tree or shrub or without written permit from the Village Forester in the case of a terrace area tree, public tree or shrub, do or cause to be done by others any of the following acts:
- (1)** Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around, or through a tree or shrub.
 - (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, 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.
 - (4)** 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.

- (5) 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 "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work, or parades.
- (6) Cause or encourage any fire or burning near or around any tree.

B. All trees on any parkway or other publicly owned property near any excavation or construction of any building, structure, or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches or install pavement within a radius of 10 feet from any public tree without a permit from the Village Forester.

§ 251-15. Appeals.

Any person who receives a determination or order from the Village Forester and objects to all or any part thereof may appeal to the Village Board within seven days of receipt of the order, and the Village Board shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing the Village Board may reverse, affirm, or modify the order or determination appealed from, and the grounds for its decision shall be stated in writing. The Village Board shall, by letter, notify the party appealing the order or determination of its decision within 10 days after the hearing has been concluded and file its written decision with the Village Clerk-Treasurer.

§ 251-16. Adoption of state statutes.

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