

Chapter 27

Tree Ordinance

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Effective: 10-30-97

Chapter 27

Tree Ordinance

27.01 TITLE

This Ordinance shall be known and may be cited as the Village of Amherst Tree Ordinance of the Village of Amherst, Wisconsin.

Effective: 10-30-97

27.02 PURPOSE AND INTENT

Rapid growth, the spread of development, and increasing demands upon natural resources have the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and processes associated therewith which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreation and economic assets to existing and future residents of the Village of Amherst.

It is the purpose and intent of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the management of the planting, maintenance, and removal of trees, shrubs, and other plants within the Village of Amherst

Effective: 10-30-97

27.03 ESTABLISHMENT AND COMPOSITION OF A VILLAGE TREE BOARD

The Village of Amherst Tree Board (hereafter "Tree Board") is hereby established. Its functions and duties are limited to those set forth in this Ordinance.

The Tree Board shall be composed of seven (7) members. Five (5) members shall be appointed by the Village President subject to approval of the Village Board. The remaining two (2) members shall be ex-officio and shall not vote. The two (2) ex-officio village members shall be the Assistant Director of Public Works and the Forester.

Effective: 10-30-97

27.04 TERM OF OFFICE

The term of the five (5) persons to be appointed by the Village President shall be three (3) year except that the term of one (1) member appointed to the first board shall be for only one (1) year and the term of one (1) member of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. Terms shall begin on May first.

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Revised: 4-22-03

27.05 COMPENSATION

Citizen Tree Board members shall be compensated for not more than twelve (12) meeting per year, not to exceed three (3) hours per meeting, on the same hourly rate basis as elected officials and by the same method of calculation. In the case of special meetings relating to grant-funded projects, compensation shall be at the discretion of the Village Board.

Effective 10-30-97

27.06 OPERATIONS

The Tree Board shall elect its own officers, make its own rules and regulations and keep a record of its proceedings. Regular meetings, usually monthly, shall be held with proper notice of the place, time and date with additional meetings held as required. Changes or cancellations may be authorized by the Secretary after consultation with a majority of the Tree Board members. A majority of the members shall be a quorum for the transaction of business.

Effective: 10-30-97

27.07 DUTIES

The duties of the Tree Board shall be limited as follows:

- (1) Within a reasonable time after the appointment of the Tree Board, upon call of the Chairperson of the Tree Board, the Tree Board shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Ordinance.
- (2) The Tree Board, with the assistance of the Forester, shall develop and annually update the Urban Forestry Plan. The Plan shall outline urban forestry program activities for a minimum of five (5) years. This plan shall describe:
 - a. The urban forestry activities to be undertaken by the Village
 - b. The reasons for those activities
 - c. The possible funding source(s)
 - d. The means of accomplishing the activities
 - e. The alternatives available to the Village to fund or accomplish the activity
 - f. The projected date of completion, and the consequences if the activity is not completed
 - g. The Public Works Committee shall oversee implementation of the Urban Forestry Plan.

Activities may include, but are not limited to:

- a. street tree inventory
- b. tree planting and removal
- c. beautification projects
- d. coordination of gift trees and other donations
- e. development of nursery

- f. grant writing
 - g. pursuit of Tree City USA status, and
 - h. educational projects
- (3) The Forester shall consult the Tree Board on any matter pertaining to the Village of Amherst Tree Ordinance and its enforcement. These matters shall include, but not limited to, any of the following:
- a. Amendments to the Village of Amherst Tree Ordinance, and alterations or revisions of the Urban Forestry Plan
 - b. Policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the Village.
 - c. Allocation of funds to the Urban Forestry Program, and expenditures of funds by the Urban Forestry Plan;
 - d. Establishment of educational and informational programs; and
 - e. Development of policies and procedures regarding the Forester's duties. The duties of the Forester shall be those prescribed by Wisconsin State Statute 27.09.
- (4) All acts and decisions of the Tree Board under the provisions of this Section shall act as recommendations subject to the review and approval of the Village Board.

Effective: 10-30-97

27.08 STREET TREE SPECIES TO BE PLANTED

The following list constitutes the Official Street Tree species for the Village of Amherst, Wisconsin. No species other than those included in this list may be planted as Street Trees without written permission of the Village Tree Board. Adjacent property owners will be consulted regarding street tree planting providing that the selection and location of said trees is in accordance with Sections 27.08 through sections 27.12 of this ordinance. Trees on public property shall be planted by or under the directions of the Tree Board.

Small Trees

Amur Maple (single trunk) - *Acer ginnala*
 Thornless Hawthorn varieties - *Crataegus* cultivars
 Leprechaun Green Ash - *Fraxinus pennsylvanica* 'Leprechaun'
 Tatarian Maple (single trunk) - *Acer tataricum*
 American Hornbeam (bluebeech) - *Carpinus caroliniana*
 Three-Flowered Maple - *Acer triflorum*
 Eastern Red Bud - *Cercis canadensis*
 Serviceberry (single trunk) - *Amelanchier* varieties
 Crabapple cultivars - *Malus* cultivars
 Newport Plum - *Prunus* 'Newport'
 Korean Mountain Ash - *Sorbus decora*
 Japanese Tree Lilac - *Syringa reticulata*

Medium Trees

Honey Locust (thornless) - *Gleditsia*
Sunburst Locust - *Gleditsia triacanthos*
Autumn Purple White Ash - *Fraxinum americana*
Amur Chokecherry - *Prunus maackii*
Ohio Buckeye - *Aesculus glabra*
Ironwood (single trunk) - *Ostrya Virginiana*
Corktree - *Phellodendron* varieties

Large Trees

King Crimson Norway Maple - *Acer platanoides*
Schwedler Norway Maple - *Acer platanoides*
Emerald Queen Norway Maple - *Acer platanoides*
Sugar Maple - *Acer sacharum* and varieties
Red Maple - *Acer rubrum* and varieties
Little Leaf Linden - *Tilia cordata* cultivars
Hackberry - *Celtis occidentalis*
Ginkgo - *ginkgo biloba*
Kentucky Coffeetree - *Cymnocladus dioica*
White Oak - *Quercus alba*
Swamp White Oak - *Quercus bicolor*
Red Oak - *Quercus rubra*
Pin Oak - *Quercus palustris*
Disease Tolerant Elms - *Ulmus* varieties
Northern Catalpa - *Catalpa* species
Honeylocust Cultivars - *Gleditsia triacanthos* varieties

For prohibited trees see Public Nuisance Chapter 24 Section 24.01 of the Village Ordinances.

Effective: 10-30-97

27.09 SPACING

The spacing of Street Trees shall be in accordance with the three species size classes listed in Section 27.08 of this ordinance. No trees shall be planted closer together than the following: Small Trees: Thirty (30) feet , Medium Trees: Forty (40) feet, Large Trees: Fifty (50) feet except in special plantings designed or approved by a landscape architect and the Tree Board.

27.10 DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curb lines and sidewalks will in accordance with the three species size classes listed in Section 27.08 of this Ordinance. No trees may be planted closer to any curb or sidewalk than the following: Small trees: Two (2) feet; Medium trees: Three (3) feet; Large Trees: Four (4) feet.

27.11 RESTRICTED AREAS

No street trees shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than ten (10) feet of any fireplug or driveway.

Effective: 10-30-97

27.12 UTILITIES

No Street Trees other than those species listed as Small Trees in Section 27.08 of this ordinance may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

Effective: 10-30-97

27.13 PUBLIC TREE CARE

The Tree Board shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, lanes, squares and public property, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or pest.

Utility companies shall notify the Village Forester prior to the pruning of any tree on public property for the purpose of maintaining utility line clearance. All pruning shall comply with accepted arboricultural standards for line clearance.

It shall be unlawful for any person or firm to prune any tree on public property without a permit. Permit applications are available in the Village Clerk's office or by calling 824-5613 and shall be submitted to the Tree Board.

All pruning shall comply with accepted arboricultural standards and the Tree Maintenance Manual "How to Prune Trees", NA-FR-01-95, prepared by the Forest Service and distributed by the United States Department of Agriculture (USDA).

Effective: 10-30-97

27.14 TREE TOPPING

It shall be unlawful 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 limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Ordinance at the determination of the Tree Board.

Effective: 10-30-97

27.15 PRUNING, CORNER CLEARANCE

Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not:

- (1) obstruct the light from any street lamp;
- (2) obstruct the view of any street intersection;
- (3) interfere with visibility of any traffic control device or sign;
- (4) have less than a clear space of eight (8) feet above the surface of the street or sidewalk;
- (5) constitute a public hazard.

The Tree Board will notify in writing the owners of such trees. Pruning shall be done by said owners at their own expense within fifteen (15) calendar days after the date notice is served. In the event of failure of owners to comply with such provisions, the Village shall have the authority to prune, upon proper notice to the property owner, such trees and charge the cost of pruning plus a \$50 administrative fee as a special charge against the property owner's real estate tax bill.

Effective: 10-30-97

27.16 DEAD, DISEASED, HAZARD TREE OR LIMB REMOVAL ON PRIVATE PROPERTY

The Village has the right to cause the removal of any dead or diseased trees on private property within the Village when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the Village. The Forester will notify in writing the owners of such trees. Within fifteen (15) calendar days after the date the notice is served the owner shall:

- (1) remove such trees or limbs at their own expense, or
- (2) provide proof to the Village Board that a firm has been secured to do the job of removing the tree or limbs.

Removal shall be completed no later than forty-five (45) days after the original date notice was served. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove, upon proper notice to the owner, such trees or limbs and charge the cost of removal, plus an additional \$50.00 administrative fee, as a special charge against the property owner's real estate tax bill.

Effective: 10-30-97

27.17 REMOVAL OF STUMPS

All stumps of any trees on public property shall be removed a minimum of six (6) inches below the surface of the ground.

Effective 10-30-97

27.18 INTERFERENCE WITH VILLAGE TREE BOARD

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park trees, or trees on private grounds, as authorized in this ordinance.

Effective: 10-30-97

27.19 ARBORISTS LICENSE AND BOND

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing any trees on public property within the Village without first applying for and procuring a permit. The permit shall be applied for annually in advance; provided, however, that no permit shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$500,000 for bodily injury and \$100,000 property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described. Permit applications are available from the Village Clerk.

Effective: 10-30-97

27.20 REVIEW BY VILLAGE BOARD

Any person who receives a determination or order under this Ordinance from the Village Tree Board or the Village Forester and objects to all or any part thereof, shall have the right to appeal such determination or order subject to the provisions of Chapter 68, Wisconsin Statutes, to the Village Board within seven (7) days of the receipt of the order, and the Village Board shall hear such appeal within thirty (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 ten (10) days after the hearing has been conducted. The Village Board shall file its written decision with the Village Clerk.

Effective: 10-30-97

27.21 PENALTY

Unless otherwise provided for, any person who violates this Section shall be subject to a Class "B" forfeiture, or incarceration in lieu thereof, as provided in Chapter 2.09 of this Code. (2.09 Class "B" Not to exceed Five Thousand Dollars (\$5000) or nine (9) months in jail.

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