

## Chapter 10

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10.01 INTENT AND PURPOSE.

(a) Public Areas. It is hereby declared to be the policy of the Village of Paddock Lake, Wisconsin, to regulate and control the planting, removal, maintenance and protection of trees and shrubs in or upon all public areas of the Village in order to:

(1) Eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or public areas.

(2) Promote and enhance the aesthetic and general welfare of the Village.

(3) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas.

(b) Public Areas and Private Premises. It is hereby declared to be the policy of the Village to guard all trees, shrubs and other plantings both public and private, within the Village, against the spread of disease, insects or pests. The Village shall take action to protect the public against trees and shrubs which threaten the public health, safety and welfare.

10.02 DEFINITIONS.

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

(a) "Person" shall mean persons, firm, association or corporation.

(b) "Village" shall mean the Village of Paddock Lake, Wisconsin.

(c) "Commission" shall mean the Tree Commission or its designee as constituted under the Code of Ordinances of the Village of Paddock Lake.

(d) "Public Rights of Way" shall include the part of every street and alley between the lot line and the curb or pavement and shall include sidewalks and lawn parkways between the sidewalk and the curb or curblines, or the street right of way.

(e) "Public Areas" shall include all public rights of way, parkways, boulevards, parks and other lands owned, controlled or leased by the Village.

(f) "Public Trees and Shrubs" shall mean any trees and shrubs located or to be planted in or upon public areas.

(g) "Private Premises" refers to all lands not owned, controlled or leased by the Village of Paddock Lake.

(h) "Private Trees and Shrubs" shall mean any trees and shrubs located or to be planted in or upon any lands not owned, controlled or leased by the Village.

(i) "Public Nuisance" shall mean any tree or shrub or part thereof which by reason of its condition, location, size or species 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 threaten public or private property; or which endangers the public health, safety and welfare.

(j) "Forestry Program" shall mean a comprehensive plan including maintenance, inventory and new planting with budget projections for annual and long range implementation.

(k) "Village Parkway" shall mean that area between the curb, or proposed location of curb and sidewalk or proposed location of sidewalk or the street right of way not covered by pavement in all areas which do not have sidewalks or proposed sidewalks, which is owned, controlled or leased by the Village.

(l) "Emergency" shall mean any occurrence or anticipated occurrence which requires action to eliminate danger to the public health, safety and welfare.

#### 10.03 TREE COMMISSION.

The Village may employ a forester or designate a municipal employee, who, under the supervision of the Commission, may exercise the following powers and duties:

(a) The Commission shall have jurisdiction, authority, control, supervision and direction over all public trees and shrubs planted or growing in or upon public areas, or as a part of a Village-approved forestry program, as well as the planting, removal, maintenance and protection thereof.

(b) The Commission shall cause the provisions of this ordinance to be enforced.

(c) The Commission shall prepare and submit an annual Forestry Report to the Village Board of Trustees.

(d) The Commission shall direct and implement a Master Tree Plan as approved by the Village Board.

(e) The Commission shall attempt to prevent the spread of disease, insects or pests in public or private trees and shrubs, and shall conduct inspections of trees located on private property,

with prior notice, following complaints of third parties or under its own volition, if there is reasonable cause to believe that diseased, hazardous or pestiferous trees or shrubs, injurious to the public and/or to the tree population exists. The Commission is authorized to take samples for examination by a competent entomologist, plant pathologist or forester to determine action necessary.

In the event the Commission is denied entry upon any private premises, it is authorized by Wisconsin Statutes to make application to the property court for an inspection warrant.

#### 10.04 PERMITS.

(a) Permit Required. No person shall plant, remove, prune branches or roots, disturb, alter or do surgery on a tree or shrub in any public area, or cause such act to be done by others, without first obtaining a written permit for such work from the Commission. The Commission may authorize the Village Building Inspector for issuance of such permits.

(b) Permit Exemptions. No permit shall be required to fertilize or water trees or shrubs in public areas.

(c) Permits to Public Utilities and Contractors Working Within any Public Areas.

(1) A public utility is required to notify the Commission within 48 hours of doing any work near, on or adjacent to any tree or shrub upon Village property. The Commission shall inspect trees or shrubs to be affected and notify the utility of modifications, if any. The utility shall not proceed until notice by the Commission is served to the utility in writing.

(2) Any public utility or contractor planning to excavate the soil near trees or shrubs is required to apply for a permit with the Village. Upon inspection, the Commission may require the utility or its agents to submit a plan specifying the work to be done and showing the trees and shrubs within the work project site within a minimum distance of forty feet.

The Commission shall modify the plan if needed to provide protection to the trees and shrubs. Construction damage or death to trees or shrubs shall be evaluated and become subject to penalties as specified herein. In addition, damaged or dead trees or shrubs shall be assessed by separate appraisal, according to the extent of damage or death, and the utility will be subject to the loss

in value of the plant(s), including replacement diameter inch for diameter inch and/or size.

10.05 RULES AND REGULATIONS REGARDING TREES AND SHRUBS IN OR UPON PUBLIC RIGHTS OF WAY AND AREAS.

(a) Planting.

(1) No tree or shrub may be planted on Village lands without the written permission of the Commission. A permit shall be issued provided trees and shrubs are acceptable to the Commission.

(2) Size of trees and shrubs. Trees must be a minimum diameter (measured six inches above the ground or natural grade) of 1.5 inches. All trees must be a minimum height of 6.5 feet, measured at the ground level of the site to the tip of the tree. Shrubs shall be of a size acceptable to the Commission.

(3) Spacing. No street trees or shrubs shall be planted within twenty (20) feet from any street corner, street light or traffic signal. The Commission may set other planting standards to accommodate the public health, safety and welfare.

(4) Illegal trees. The following trees shall not be planted on public roadways or areas: Boxelder, Cottonwood, American, red or slippery elms, Mountain Ash and Tree of Heaven. Other species may not be compatible on public roadways as determined by the Commission.

(b) Pruning.

(1) Trees and shrubs standing in or upon any public areas or upon any private premises shall be kept trimmed so that the lowest branches or foliage projecting over any public area subjected to vehicular traffic provides a clearance of not less than thirteen and one-half (13½) feet. The Commission may waive the provisions of this section for newly planted trees if they do not interfere with vehicular traffic, obstruct the light of any street light, obstruct any traffic control sign or device, or otherwise endanger the public health, safety or welfare.

(2) Trees and shrubs standing in or upon any public area or upon any private premises adjacent to a public area and subjected to pedestrian traffic shall be kept trimmed so that the lowest

branches or foliage provide a clearance for pedestrian traffic of not less than eight (8) feet, unless waived in writing by the Commission.

(c) Removal of Trees and Shrubs. No tree or shrub shall be removed from public areas of the Village without a permit issued by the Commission. Once removed, the stump must be ground out or pulled out of the ground to a minimum depth of nine (9) inches below normal grade. Surface roots shall be removed to a depth of at least six (6) inches below normal grade. All wood and debris shall be removed from the street prior to the end of each working day and all holes shall be filled to the normal grade with topsoil.

#### 10.06 INJURY TO TREES OR SHRUBS PROHIBITED.

No person, without the consent of the owner in care of a private tree or shrub or without a written permit from the Commission in the case of a public tree or shrub, shall do any of the following acts:

(a) Secure, attach, fasten or run through any rope, cable, wire or fixture to, around or through a tree or shrub.

(b) Break, injure, mutilate, deface, kill or destroy any tree or shrub or part thereof or permit any fire to burn where it will injure any tree or shrub.

(c) 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.

(d) Excavate any ditch, tunnel or trench or lay footings, pavement, stone or manmade material within a radius of the tree or shrubs crown (branches and leaves) unless authorized in writing by the Commission.

(e) Erect, alter, repair, raze or excavate, without placing suitable guards as approved by the Commission, around all public trees or shrubs which may be injured by such operations within the construction zone.

(f) Remove any guard, stake or other device or other 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 the unimpeded access of air, water or fertilizer.

#### 10.07 MOVING BUILDINGS AND STRUCTURES.

When a permit is obtained from any public authority to move over-height or over-width structures or objects, the

Commission shall designate routes which will result in minimal damage to trees and shrubs.

#### 10.08 SIDEWALKS.

No person shall place or maintain upon any public street stone, cement or device of any kind that will prevent the free passage of air and water to a tree, plant or shrub unless authorized by the Commission. No sidewalk shall be constructed in such a manner that any tree growing in a public area shall be enclosed unless a space of eight (8) feet by four (4) feet is left open beneath the tree.

#### 10.09 BARRICADES.

Barricades shall be erected to protect the public health, safety and welfare before, during and after construction and during planting, pruning and removal of trees and shrubs in all public areas. The American National Standards Institute safety standards shall be used as a guide to insure adequate protection to the public. All roads and sidewalks shall be blocked when planting, pruning and removing trees and a flagman shall be posted to warn passerby and redirect traffic into a safe direction.

#### 10.10 COST OF PLANTING, REMOVAL AND PROTECTION OF TREES AND SHRUBS.

When a permit is issued by the Commission to plant, prune, remove, maintain or protect trees and shrubs, the entire cost of the materials, equipment and labor shall be paid by the permittee. The cost of all work in public areas directed by the Commission and the Village shall be paid by the Village except in those situations herein described.

#### 10.11 VILLAGE MASTER TREE PLAN.

The Commission shall prepare and submit to the Village Board a Master Tree Plan which shall include the following programs:

(a) A Village Beautification Program to be set up on a land division basis covering a ten year period.

(b) A Village Street Improvement Program to provide that whenever a bond issue is passed for the purpose of creating, replacing and/or widening of any Village street, that there be included within such bond issue sufficient monies to carry out a tree planting program to replace any trees destroyed or damaged or to add trees not previously on a street, in the course of

making the principal improvement.

(c) A New Subdivision Tree Planting Program that will require a developer to place and plant trees, at the sole expense of the subdivider, from the approved list of trees within the public areas of each subdivision.

(d) An Urban Forest Management Plan which includes recommendations, goals and objectives for tree planting, pruning and removal of trees and shrubs; tree inventories; an emergency storm damage plan and; a major street tree plan.

#### 10.12 NOTICES-CITY PARKWAYS.

Whenever the Commission proposes the removal of any living tree or shrub in any Village parkway, it shall give two (2) weeks advance written notice to the owner of the lot or parcel of land adjacent to the parkway on which such tree or shrub stands. No prior notice is required by the Commission for the pruning of trees nor is notice required to remove dead or hazardous trees or shrubs located on the parkway.

#### 10.13 PUBLIC NUISANCE-PRIVATE PREMISES.

(a) Notice to Abate Public Nuisance. Whenever the Commission shall find that any tree or shrub or part thereof growing or located upon private premises is a public nuisance, it shall notify the owner, or his agent, in writing, that the nuisance must be treated, removed or otherwise abated as directed within thirty (30) days, unless the Commission determines immediate action is necessary for public health, safety and welfare.

However, when emergency action is required, the Commission need only attempt to contact the owner of said private premises or the owner's agent and attempt to provide notice. If the owner or owner's agent cannot be contacted and notified of the emergency, the Commission may abate said nuisance without actual notice to owner or owner's agent, at the expense of the owner, charged as a special assessment against the owner's property. Contacting the owner shall mean - reviewing such public information as is maintained at the Village Hall by Village Clerk/Treasurer, and attempting to contact the owner personally at the premises or by phone or attempting to contact non-resident by phone.

(b) Abatement by Village. If the owner of such premises or his agent shall refuse or neglect to comply with the notice within the time specified, the Commission shall cause the nuisance to be abated and a special assessment charged against the owner's property.



#### 10.14 LICENSE OR PERMIT REVOCATION.

In addition to any other penalties or court proceedings authorized to be taken hereunder, any permittee, violating the permit or license terms shall have such permit or license revoked by the Commission.

#### 10.15 APPEAL.

Any person receiving a determination, order, notice or revocation from the Commission may appeal from all or any part thereof within fourteen (14) days of the receipt of such notification. The Commission shall hear such an appeal within thirty (30) days of their receipt of written notice thereof. After such hearing, the Commission may revise, modify or affirm the determination or order appealed and the grounds for its decision shall be stated in writing. The Commission shall file its written decision with the Village Clerk/Treasurer and shall mail a copy thereof to the appellant within ten (10) days following the conclusion of said hearing.

#### 10.16 NO GUARANTEE, WARRANTY OR CAUSES OF ACTION CREATED.

This ordinance is not intended to guarantee or to expressly or impliedly warrant to anyone that it will accomplish its intended purpose, especially in regard to private trees and shrubs, and no causes of action are intended to be created or vested in anyone either against the Village or against any other party.

#### 10.17 SEVERABILITY.

If any provision of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this ordinance.

#### 10.18 PENALTY.

Any person who by himself or by his agent or employee, shall violate any of the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than Twenty-five (\$25.00) Dollars and up to One Thousand (\$1,000.00) Dollars. Each tree or shrub damaged or removed shall be deemed a separate offense.