

## Chapter 408

### TREES AND SHRUBS

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[HISTORY: Adopted by the Village Board of the Village of Endeavor at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

#### GENERAL REFERENCES

Brush, grass and weeds — See Ch. 192.  
Nuisances — See Ch. 312.

Yard waste — See Ch. 378.

#### § 408-1. General requirements.

- A. Planting. It shall be unlawful to plant any tree or shrub in any public street or parkway or other public place without having first obtained a permit therefor. Applications for such permits shall be made to the Village Clerk-Treasurer and shall be referred to the Village Board. No shrub shall be planted, maintained or allowed to grow to a height of more than three feet. Trees shall be planted at least 25 feet apart. All trees and shrubs so planted shall be placed subject to the directions and approval of the Public Works Committee.
- B. Removals. It shall be unlawful to remove or cut down any tree or shrub in any street, parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Village Clerk-Treasurer and shall be referred to the Public Works Committee for approval before permission shall be granted.
- C. Injury. It shall be unlawful to injure any tree or shrub planted in any such public place.
- D. Advertisements or notices. It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway or other public place.
- E. Dangerous trees. Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place or which obstructs any streetlamp or interferes with the fire alarm wires may be trimmed by the Village so that the obstruction shall cease. Any limb of a tree which has become likely to fall on or across any public way or place may be removed by the Village.

- F. Wires. It shall be unlawful to attach any wire or other rope to any tree without permission of the Village Board. Any person, company, firm or corporation given the right to maintain poles and wires in the streets, alleys or other public places in the Village shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any tree or shrub in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed and subject to the supervision of the Public Works Committee, so that no injury shall be done to the poles or wires or shrub and trees by contact.
- G. Gas pipes. Any person, firm or corporation maintaining any gas pipe in the Village shall, in the absence of provisions in the franchise concerning the subject, keep such pipes free from leaks.
- H. Excavations. In making excavations in streets or other public places proper care shall be taken to avoid injury to the roots of any tree or shrub wherever possible.

#### § 408-2. Elm trees.

- A. Intent and purpose. Many elm trees grow on public and private premises within the Village of Endeavor, 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 the health and life of such trees are threatened by a fatal disease known as "Dutch elm disease," which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.). The Board hereby declares its intention to control and prevent the spread of such diseases and insect pests and vectors which carry such disease and declares Dutch elm disease and the elm bark beetles which carry such disease to be public nuisances.
- B. Inspection.
  - (1) The Public Works Committee shall inspect or cause to be inspected all premises and places within the Village to determine whether any public nuisance exists thereon. The Public Works Committee shall also inspect or cause to the inspection of any elm tree reported or suspected to be infected with Dutch elm disease or any elm bark bearing material reported or suspected to be infested with elm bark beetles.
  - (2) The Public Works Committee and its agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.
- C. Abatement of nuisances; duty of Public Works Committee.
  - (1) The Public Works Committee shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or by the other means which it determines to be necessary to prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or vectors known to carry such disease fungus.

- (2) Whenever the Public Works Committee after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Village, it shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.
- (3) When the Public Works Committee shall determine with reasonable certainty that a public nuisance exists upon private premises, it shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if the owner can be found, or upon the occupant thereof a written notice of the existence of such nuisance and of a time and place for a hearing, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommended procedures for its abatement and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing before the Village Board to show that such nuisance does not exist or does not endanger the health of elm trees in the Village, the Public Works Committee shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.
- (4) If after hearing held pursuant to this Subsection D it shall be determined by the Village Board that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed with 10 days after such hearing, the Village Board shall proceed to abate the nuisance and cause the costs thereof to be assessed against the property in accordance with the procedure provided in this section. The Board may extend the time allowed the property owner for abatement work but not to exceed 10 additional days.

**§ 408-3. Recovery of costs.**

- A. The costs of abatement of a public nuisance or elm wood at the direction of the Public Works Committee if the nuisance, tree or wood is located on public property shall be borne by the Village.
- B. The costs of abating a public nuisance or elm wood located on private premises when done at the direction and under the supervision of the Village Board shall be assessed to the property on which such nuisance, tree or wood is located as follows:
  - (1) The Public Works Committee shall keep a strict account of the costs of such work and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charges apply and names and addresses of the owners of such lands to the Village Board on or before October 15 of each year.
  - (2) Upon receiving the Public Works Committee's report, the Village Board shall hold a public hearing on such proposed charges, giving at least 14 days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of

the amount proposed to be assessed against his premises and the work for which such charge is being made.

- (3) After the hearing, the Village Board shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
  - (4) The Village Clerk-Treasurer shall mail notice of that amount of such final assessment to each owner of property assessed at his last known address, stating that unless paid within 30 days of the date of the notice, such assessment shall bear interest at the rate of 6% per annum and will be entered on the tax roll as delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate shall apply to such assessment.
- C. The Village hereby declares that in making assessments under this section it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested elm trees or elm wood or part thereof.

**§ 408-4. Permit procedure.**

- A. Permit required. No person, except upon order of the Public Works Committee, shall plant or remove or do major alternations, as determined by the Public Works Committee, 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 Clerk-Treasurer 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 Public Works Committee determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purpose 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, it shall have the Clerk-Treasurer issue a permit to the applicant.
- D. Permit form; expiration; inspection. Every permit shall be issued by the Public Works Committee 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 Public Works Committee 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 Public Works Committee which gives the Committee the authorization to supervise and direct work done associated with trees and shrubs.

#### § 408-5. Planting.

##### A. Planting requirements.

- (1) The size and genus, species and variety of trees and shrubs to be planted in the public areas and terrace areas and the manner of planting shall be submitted to the Public Works Committee for approval before commencement of such work as a part of the permit application process required in § 408-4.
- (2) There shall be a minimum distance of 25 feet and a recommended distance of 25 to 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 Public Works Committee may be removed. The Public Works Committee 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 with the time specified, the Village may remove such trees, plants and shrubs and assess costs thereof to the owner.

C. Cottonwood and box elder trees prohibited. No person shall plant within the Village of Endeavor any tree of the species *Populus deltoides*, commonly called "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 Public Works Committee, the Public Works Committee 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.

- D. Planting of certain trees restricted. No person shall hereinafter plant any tree within the Village of Endeavor which would constitute a nuisance to the public or adjoining owners or interfere with the safety of the public for the operation of any sewer system. The Public Works Committee shall cause the removal of any tree planted in violation of this subsection and shall determine if any such tree is a nuisance.

**§ 408-6. Trimming.**

- A. Trees and shrubs standing in or upon any terrace area or public areas or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public sidewalk, street or alley provide clearance of not less than 14 feet. The Public Works Committee may waive the provisions of this subsection for newly planted trees if it 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 Public Works Committee.
- C. Clearance from any other public place to lower branches shall not be less than 10 feet.
- D. All cuts above one inch in diameter shall be treated with a tree wound compound.

**§ 408-7. Obstruction of intersections or 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 Public Works Committee 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.

**§ 408-8. Removal of trees and stumps.**

- A. Dangerous and obstructive trees. If any tree standing in a terrace or on any private property and overhanging into a terrace or street appears to be dead, liable to fall or dangerous, or an obstruction to public travel, the Public Works Committee shall notify the property owner to take corrective action within a specified period. In the event no action is taken, the Public Works Committee shall cause such tree, or part thereof, to be cut down or trimmed and, if it is in any public terrace, to be removed therefrom. The costs of such work performed on trees on private property shall be assessed against the owner thereof.
- B. 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 as 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.

**§ 408-9. Causing injury or damage.**

- 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 Public Works Committee 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 in, 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 designated 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 Public Works Committee.

**§ 408-10. Appeals.**

Any person who receives a determination or order from the Public Works Committee and objects to all or any part thereof shall have the right to appeal such determination or order in accordance with Chapter 6, Administrative Review, of this Code.

**§ 408-11. Adoption of statutes.**

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