

Village of Beverly Hills – Tree Ordinance

Chapter 17 - Trees

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17.01 DEFINITIONS

(a) Owner. Any person, firm or corporation having fee simple title, joint or common tenancy, equitable ownership or interest of a mortgagee in possession. Any person, firm or corporation whose name appears on the last preceding assessment roll for the property shall be deemed the prima facie owner of the property within this ordinance.

(b) Person. Any human individual, group of individuals, firm, association, or corporation.

(c) Plant. A young tree, vine, shrub, or herb planted or suitable for planting.

(d) Public Place. A place to which the general public has the right to occupy; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private, including but not limited to, traffic islands and cul-de-sacs.

(e) Right-Of-Way. Land which has been purchased by or dedicated to the public for the purpose of transportation or utility placement.

(f) Shrub. A low, small plant, the branches of which grow directly from the earth with any supporting trunk, or stem. Any tree with a potential growth of less than fifteen feet (15') shall be considered a shrub.

(g) Trees. A woody plant, the branches of which spring from, and are supported upon, a trunk or body which, at its greatest potential growth, exceeds fifteen feet (15') in height.

(h) Vegetation. A plant whose stem requires support and which climbs by tendrils or twining or creeps along the ground.

17.02. PERMIT REQUIRED

(a) Tree Planting or Removal.

1. No person shall hereafter plant, transplant, or remove any tree upon or from any right-of-way, traffic island or public place in the Village of Beverly Hills, nor cause such act to be done by others without first obtaining a written permit from the office of the Village Clerk.

2. Persons receiving such permit shall abide by the ordinances and policies adopted by the Village of Beverly Hills.

3. Whenever any tree shall be planted in conflict with the provisions of the permit, it shall be lawful for the Director of Public Services or his designee to cause removal of the same, and the cost for removal shall be assessed to the permittee as provided by law in the case of special assessments.

(b) Application for Permits. Applications for permits must be made at the office of the Village Clerk.

(c) Permit Expiration.

1. Each permit granted shall contain an expiration date, and the work shall be completed in the time allowed in the permit, and in the manner therein described.

2. Any permit issued shall be void if its terms are violated, or if the work described is not substantially completed by its expiration date.

3. Permit extensions will be considered if conditions warrant.

(d) Permit Contents.

1. Every permit issued by the Village Clerk shall describe work to be done, or state the number of trees to be removed or planted and the location, size, species, or variety of each tree, the method of planting and other information that the Director of Public Services or his designee requires to insure that the work will be done in accordance with this ordinance.

2. Organizations or civic groups applying for an "overall tree planting permit" shall include with their permit application a list of tree planting locations with specie and/or variety of tree to be planted. Such planting shall be performed by professional

landscape contractors, licensed by the State of Michigan and shall be staked out prior to application for permit. The Director of Public Services, or his designee, shall inspect such staked locations and determine the advisability of the proposed work.

(e) Permit Fee and Supervision.

1. No charge shall be made for any permit unless it is necessary to retain a consultant to supervise the provisions of the permit, and in such case, the Village Clerk shall determine the charge for the service based on actual cost plus an additional one percent (1%) of the actual cost of the service for Village administrative purposes.

2. In issuing any and all permits, the Village Clerk shall act promptly and shall keep duplicate records of all permits issued and of compliance therewith.

3. Permits for all tree management activities will be issued only after the Director of Public Services or his designee makes a thorough investigation as to the advisability of the proposed work.

(f) Conditional Permit for Removal of Trees and Shrubs. As a condition to any permit issued for the removal of any tree or shrub the Director of Public Services or his designee may require that the permit holder plant, at his/her expense, a tree or shrub designated by said Director of Public Services or his designee in place of the ones removed at the removal site or at any alternate site located in a public area immediately adjoining the permit holder's property.

17.03 PROTECTION OF TREES AND SHRUBS

It shall be unlawful for any persons to do the following to any trees in or upon any rights-of-way, parks or other public places:

(a) Fasten any sign, card, or poster by wire, rope, nail or other hardware, around or through, any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care;

(b) Remove, break, injure, mutilate, deface, kill, cut, peel or destroy any tree or shrub by any means or in any manner;

(c) Permit any fire to burn where such fire will injure any portion of any tree or shrub;

(d) Permit any toxic chemical to seep, drain, or to be emptied on or about any tree or shrub;

(e) Deposit, store, place or maintain, on any street, highway, or other public place, any brick, sand, stone, concrete or other material which may impede free passage of water, air, and fertilizer to the roots of any tree or shrub growing therein;

(f) Knowingly permit any electrical wires to come into contact with any tree or shrub;

(g) Allow excavations and driveways to be placed within five feet (5') of any tree without written permit from the Village Clerk. Any person making such excavation or construction shall protect any tree within six feet (6') thereof with a good substantial frame box to be approved by the Director of Public Services or his designee and all building materials or other debris shall be kept at least four feet (4') from any tree during and after construction.

(h) Plant any prohibited species of tree as set forth under Section 4.01, and as determined by the Director of Public Services or his designee.

17.04 PROHIBITED SPECIES

The owner of land abutting on any street may not plant trees of the following species in that part of said street butting his/her land not used for public travel: Poplar (All Varieties) - *Populus* spp, Tree of Heaven - *Ailanthus altissima*, Catalpa (All Varieties) - *Catalpa* spp, Box Elder - *Acer negundo*, Silver Maple - *Acer saccharinum*, Black Walnut - *Juglans nigra*, Willow (All Varieties) - *Salix* spp, Mulberry (All Varieties) - *Morus* spp, Black Locust - *Robinia pseudacacia*, Chinese Elm - *Ulmus parvifolia*, Slippery Elm - *Ulmus rubra*, Siberian Elm - *Ulmus pumila*, American Elm - *Ulmus americana*, Sycamore - *Platanus occidentalis*, and/or other trees, shrubs or vines listed on the Prohibited Species Master List on file with the Director of Public Services.

17.05 PLANTING REGULATIONS

(a) Trees planted in any street right-of-way shall be spaced not less than forty feet (40') apart; however, special permission may be secured from the Director of Public Services or his designee to have a tree planted closer, but in no case shall such planting be within thirty feet (30') of an existing tree, within the right-of-way.

(b) No tree shall be planted in any street right-of-way less than two and one half feet (2-1/2') from the sidewalk.

(c) Trees on private property adjacent to the sidewalk shall be planted not less than two and one half feet (2-1/2') therefrom.

(d) No tree or shrub shall be planted nearer to the intersection of any streets than twenty-five feet (25') from the corner of such intersection.

(e) Exceptions to the above will be by special written permission from the Director of Public Services or his designee.

(f) All trees shall be free of infectious diseases.

(g) When planted, trees shall have a diameter of at least one and a half inches (1-1/2") at a distance of one foot (1') from the ground level.

(h) Planting distance from the road shall follow the existing configuration.

17.06 REMOVAL OF OTHER TREES

(a) Trees or shrubs within the public area may be removed by the Village which are not dead or infected with any disease when such trees are of an undesirable species, but only upon notice to the owner of the abutting property, and if such owner shall file written objection with the Village Clerk within seven (7) days after service of such notice a public hearing on such removal shall be had before the Village Council and the abutting owner shall be notified of the time and place of such hearing in writing.

(b) The Director of Public Services or his designee is hereby authorized to direct removal of any tree growing within any street, park or public place, when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic control devices or construction within street rights-of-way.

(c) Healthy trees that homeowners want taken down, with approval via a permit, shall be removed by the homeowner at his/her expense and stump removed by said homeowner within a reasonable period of time.

(d) Any tree removed by the Village shall have the stump removed on a cost/effective basis.

(e) Exceptions to the above shall be by special written permission from the Director of Public Services or his designee.

17.07 DUTY OF PRIVATE OWNERS

It shall be the duty of any person growing a tree or shrub within a public place or responsible for a tree or shrub growing on property abutting a public right-of-way supporting trees or shrubs to trim his/her/their trees and shrubs so as not to cause a safety or health hazard to public places, pedestrians, motorists and bicycle travelers.

17.08 INFECTED ELM TREES

Trees of all species and varieties of elm infected with the fungus *Ceratostomella ulmi* (Dutch elm disease) are hereby declared to be a public nuisance and must be eradicated and burned or buried with a ten (10) day period following the discovery of such infection.

(a) Selling or Transporting Infected Trees. It shall be unlawful to sell, give away or transport all or any parts of trees infected with the aforementioned fungus, provided wood, branches and roots of such trees may be transported to a safe place for burning or burying.

(b) Dead or Dying Elm Trees. Trees or parts thereof of elm in a dead or dying condition, whether standing or cut wood, that may serve as breeding places for any carrier of the fungus are hereby declared public nuisances and it shall be unlawful for

a property owner to possess the same.

(c) Hazardous Trees or Shrubs. Any tree or shrub which interferes with the use of any public highway, sidewalk, park or public place, or is unsafe and constitutes a hazard to the health, safety and welfare, on public or private property is hereby declared a public nuisance and the owner or occupant of the property upon which any such tree or shrub is located shall be required to eliminate the interference with use of any public highway, sidewalk, park or public place or eliminate the hazard to the health, safety and welfare, on public or private property. The procedure to be followed in such cases is as set forth in Section 17.08(e).

(d) Enforcement. The Village Manager or his authorized agent is charged with the duty of making reasonable periodic investigations to determine whether or not trees of all species and varieties of elm located upon any private or public property of the Village have become infected with the fungus *Ceratostomella ulmi* (Dutch elm disease). Wherever such infection is found upon trees located upon public property, the Village shall forthwith cause such public nuisance to be abated, by destroying such tree or wood.

(e) Inspections, Notice, and Removal of Trees.

1. The Village Manager or his duly authorized agent, may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for analysis to determine whether the same are infected. It shall be unlawful for any person to prevent any such agent from entering on private property for purposes of carrying out his duties hereunder, or to interfere with any such agent in the lawful performance of his duties hereunder.

2. Whenever any tree on private property is found to be infected the Village Manager or his authorized agent may cause notice to be sent to the owner and any other parties in interest in the premises where such tree is situated concerning the existence of such disease, and requiring the removal and burning or burying of such tree within a period of ten (10) days following such notice. Such notice shall also notify the owner of said premises that unless such tree is removed and burned or buried within such ten (10) day period, the Village will proceed with such removal and burning and assess the cost thereof against the property. Service of such notice shall be made upon each owner of or party in interest in the property in question, whose name appears upon the last local tax assessment records, by mailing by first class mail, addressed to such owner or party at the address shown on the last tax assessment roll for ad valorem tax purposes which has been reviewed by the Board of Review, as supplemented by any subsequent changes in the names or addresses of such owners or parties listed thereon.

3. It shall thereupon become the duty of the owner of said premises and other parties in interest to cause such tree to be removed and burned or buried under the direction and supervision of the Village Manager or his authorized agent. In lieu thereof, such owner or other parties in interest may request in writing that such removal and burning or burying be done by the Village, in which case the cost of such removal and burning or burying shall be tendered to the Village prior to such removal and burning.

or burying. In any instance where it appears that the owner or other parties in interest are financially unable to immediately bear the cost of such removal and burning or burying, the work may be performed by the Village and the costs thereof assessed against the property, and in such case the Village Council shall first hold a public hearing at which it shall consider both the necessity of removing the tree or trees in question and the costs to be assessed prior to removal. Notice of such hearing shall be given to the owner of the premises and other parties in interest in the premises by first class mail at least ten (10) days prior to the date of such hearing. After the holding of such hearing, the Village Council may confirm the special assessment and make same payable in yearly installments over a period not exceeding eight (8) years, with interest on the unpaid balance at the rate of six percent (6%) per annum. Upon confirmation of any such special assessment, the Village shall have a lien upon the premises in question in the amount of such assessment, to be enforced and collected in the manner provided in Chapter XI of the Village Charter for the collection of special assessments for public improvements. It shall be lawful for the Village to contract with an independent contractor for the removal and burning or burying of trees, in which case the contractual costs of removal and burning or burying shall be assessed in the manner heretofore set forth.

4. In the event more than one infected, dead, dying or hazardous trees or shrubs are found on a lot or parcel, the Village Manager or his authorized agent shall report such findings to the Village Council, who shall review the situation, and following a public hearing granted to the owner or occupant, upon at least ten (10) days notice, determine the effect thereof upon the public health, safety and welfare, and shall order such relief as shall be appropriate under the circumstances.