

## **ORDINANCE NO. 2014-02**

### **AN ORDINANCE AMENDING SECTION 6 CHAPTER 4 OF THE VILLAGE OF FREDONIA CODE OF ORDINANCES PERTAINING TO TREES AND SHRUBS**

The Village Board of the Village of Fredonia does ordain as follows:

Section 6, Chapter 4 is hereby amended to read as follows:

## **Chapter 4 Trees and Shrubs**

<b>6-4-1</b>	<b>Statement of Policy and Applicability of Chapter</b>
<b>6-4-2</b>	<b>Definitions</b>
<b>6-4-3</b>	<b>Creation and Establishment of Tree Board</b>
<b>6-4-4</b>	<b>Planting of Street Trees</b>
<b>6-4-5</b>	<b>Public Tree Care</b>
<b>6-4-6</b>	<b>Tree Topping</b>
<b>6-4-7</b>	<b>Trimming</b>
<b>6-4-8</b>	<b>Prohibited Acts</b>
<b>6-4-9</b>	<b>Interference with Village Tree Board</b>
<b>6-4-10</b>	<b>Dead or Diseased Tree Removal on Private Property</b>
<b>6-4-11</b>	<b>Removal of Stumps</b>
<b>6-4-12</b>	<b>Arborist's License and Bond</b>
<b>6-4-13</b>	<b>Review by Village Board</b>
<b>6-4-14</b>	<b>Penalty</b>

### **Sec. 6-4-1 Statement of Policy and Applicability of Chapter.**

- (a) **Intent and Purpose.** 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) **Application.** 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.

## Sec. 6-4-2 Definitions.

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

- (a) **Person.** Person, firm, association or corporation.
- (b) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the Village except the terrace areas.
- (c) **Small Tree.** Trees with anticipated height of 20 feet or less at maturity.
- (d) **Medium Tree.** Trees with anticipated height of 20-40 feet at maturity.
- (e) **Large Tree.** Trees with anticipated height of greater than 40 feet at maturity.
- (f) **Street Trees.** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.
- (g) **Park Trees.** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village or to which the public has free access as a park.
- (h) **Public Nuisance.** Any tree, 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 endanger the life, health, safety or welfare of person or property.
- (i) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter. Where there is no curb, the area eight (8) feet from the edge of pavement shall be deemed to be a boulevard.
- (j) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- ~~(c) **Street Trees.** Trees, shrubs, bushes and all other woody vegetation on land living between property lines on either side of all streets, avenues, or ways within the Village.~~
- ~~(d) **Park Trees.** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village or to which the public has free access as a park.~~
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- ~~(f) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are only sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter. Where there is no curb, the area eight (8) feet from the edge of pavement shall be deemed to be a boulevard.~~

- ~~(g) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.~~

### **Sec. 6-4-3 Creation and Establishment of Tree Board.**

- (a) **Composition.** There is hereby created and established a Tree board for the Village of Fredonia which shall consist of five (5) members, citizens and residents of this Village who shall be appointed by the Village President with the approval of the Village Board.
- (b) **Term of Office.** The term of the five (5) persons to be appointed by the Village President shall be three (3) years except that the term of two (2) of the members appointed to the first Board shall be for only one (1) year and the term of two (2) members of the first Board shall be for two (2) years. In the event that vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.
- (c) **Compensation.** Members of the Board shall serve without compensation.
- (d) **Duties and Responsibilities.** It shall be the responsibility of the Tree Board to study, investigate, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Village Board and upon their acceptance and approval shall constitute the official comprehensive Village tree plan for the Village of Fredonia. The Tree Board when requested by the Village Board, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.
- (e) **Operation.** The chairperson of the Tree Board shall be appointed by the Village President. The Tree Board shall make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

### **Sec. 6-4-4 Planting of Street Trees.**

- (a) **Street Tree Species to Be Planted.** The following list constitutes the official Street Tree species for the Village. No species other than those included in this list may be planted as Street Trees without written permission of the Village Tree Board.

#### **Small Trees**

\*Celtis occidentalis – Common Hackberry, Windy City, Prairie Pride

\*Gymnocladus dioicus – Kentucky Coffeetree, Prairie Titan, Stately Manor

Apricot

Cherry

Cotinus

Little Leaf Linden

Prunus Sargenti

Redbud

Sambucus

Sargent Cherry

Serviceberry

Witch Hazel

**Medium Trees**

\*Acer x freemanii – Autumn Blaze, Celebration, Sienna, Armstrong

\*Acer rubrum – Red Sunset, Redpointe

\*Acer saccharum – Green Mountain

American Linden

Ginkgo, Male

Ironwood

Japanese Maple

Mountain Ash

Thuja (wind break)

**Large Trees**

\*Quercus bicolor – Swamp White Oak

\*Quercus macrocarpa – Bur Oak

\*Tilia americana – American Sentry, Boulevard, Legend, Redmond

\*Ulmus americana - New Harmony, Princeton

Aesculus octanda

American Beech

American Broadleaf

American Chestnut

American Sycamor

Bitternut

Black Cherry

Black Oak (velatina)

Carga Cordifoimis

Chinese Elm

Hornbeam

Northern Catalpa

Norway Maple

Pecan

Pin Oak

Scarlet Oak

Scotch Pine

Shagbark Hickory (Quercus Coccinea)

Spruce

Sugar Maple

Sweet Buckeye/Coffeetree Kentucky

White Oak (Quereusalba)

\*These trees are suitable as street trees. Other trees on the list may be planted in other public spaces.

**Small Trees**

Apricot  
Crabapple  
Flowering (sp)  
Golden Rain Tree  
Hawthorne (sp)  
Redbud  
Little Leaf Linden  
Lilac, Jap. Tree  
Ornamental Pear  
Amur Maple  
Plum, Purpleleaf  
Serviceberry

**Medium Trees**

Ash, Green  
Hackberry  
Honeylocust (thornless)  
Ash, Autumn Purple  
Birch, River  
Mulberry, Red (fruitless, male)  
Oak, English  
Oak, Red  
Pagodatree, Japanese  
Pecan

**Large Trees**

Coffeetree, Kentucky  
Maple, Silver  
Maple, Sugar  
Oak, Bur  
Birch  
Sycamore, London, Plantree  
Crimson King Maple  
Seedless Mountain Ash  
Rubrem Red Maple  
Linden

(b) **Tree Variety.**

- (1) In order to mitigate potential loss of the urban forest due to disease or pest, no more than twenty percent (20%) of trees may come from one “family”, no more than ten percent (10%) from one “genus”, and no more than five percent (5%) from any single species.
- (2) The village will create and update annually a database of street and park trees.
- (3) All plantings within public property must be approved by the Director of

Public Works.

- (c) **Spacing.** No trees may be planted closer together than the following:
  - (1) Small trees – thirty (30) feet;
  - (2) Medium trees – forty (40) feet;
  - (3) Large trees – fifty (50) feet (except in special plantings designed or approved by a landscape architect).
- (d) **Distance from Curb and Sidewalk.** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Subsection (a), and no trees may be planted closer to any curb or sidewalk than the following:
  - (1) Small trees – two (2) feet
  - (2) Medium trees – three (3) feet
  - (3) Large trees – four (4) feet
- (e) **Distance from Street Corners and Fire Hydrants.** No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet of any fire hydrant.
- (f) **Utilities.** No street trees other than those species listed as SMALL TREES in Subsection (a) 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.
- ~~(b) **Spacing.** The spacing of street trees will be in accordance with the three (3) species classes listed in Subsection (a), and no trees may be planted closer than the following:
  - (1) Small trees – thirty (30) feet;
  - (2) Medium trees – forty (40) feet;
  - (3) Large trees – fifty (50) feet (except in special plantings designated or approved by a landscape architect).~~
- ~~(c) **Distance from Curb and Sidewalk.** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Subsection (a), and no trees may be planted closer to any curb or sidewalk than the following:~~
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- ~~(e) **Utilities.** No street trees other than those species listed as SMALL TREES in Subsection (a) 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.~~

## Sec. 6-4-5 Public Tree Care.

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

public grounds. The Village 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, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section 6-4-4.

### **Sec. 6-4-6 Tree Topping.**

It shall be unlawful as a normal practice for any reason, 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 so 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 Chapter at the determination of the Tree Board.

### **Sec. 6-4-7 Trimming.**

#### **(a) Clearance Trimming.**

- (1) Trees and shrubs standing in or upon any public right-of-way between the lot line and the curb or ledge of the improved street or upon any private premises adjacent to any public street, right-of-way, park, playground, or place shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees or shrubs are standing so that the lowest branches projecting over the public street or right-of-way provide a clearance of not less than thirteen and one-half (13 ½) feet and over all other public places of not less than eight (8) feet. The Village Tree Board 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 street light, or endanger public safety.
- (2) Clearance from sidewalk to lower branches shall not be less than eight (8) feet. All trees standing upon private property in the Village, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than eight (8) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

#### **(b) Pruning; Corner Clearance.**

- (1) 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 (2) 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.
- (2) 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 obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or

sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The owner shall contact the Village prior to pruning or removing a tree. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

- (3) Any shrub, tree or other plant which obstructs the view at an intersection of the view of a traffic sign shall be deemed to be dangerous to public travel and the Director of Public Works ~~Tree Board~~ may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the Director of Public Works ~~Tree Board~~ shall order the Village employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (4) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Director of Public Works or this ordinance ~~Tree Board~~ as specified in Subsection (3) ~~(e)~~ above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-6 of this Code of Ordinances.

## **Sec. 6-4-8 Prohibited Acts.**

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Director of Public Works ~~Village Forester~~ in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed 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) **Excavations.** 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 ten (10) feet from any public tree without a permit from the Village Tree Board.

### **Sec. 6-4-9 Interference with Village Tree Board.**

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, or park trees. Furthermore the Tree Board or its duly contracted arborist shall have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

### **Sec. 6-4-10 Dead or Diseased Tree Removal on Private Property.**

The Village shall have 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 constitute a potential threat to other trees within the Village. Under the direction of the Village Tree Board, the Arborist or Director of Public Works shall cause a written notice to be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the proceeding year. Such notice shall describe the kind of tree, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance; and the actions that the property owner may undertake to abate the nuisance. Removal shall be done by said owners at their expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provision, the Village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

### **Sec. 6-4-11 Removal of Stumps.**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

### **Sec. 6-4-12 Arborist's License and Bond.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Village without first applying for and procuring a license. The license fee shall be Twenty-five Dollars (\$25.00) annually in advance; provided, however, that no license shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of Fifty Thousand Dollars (\$50,000) for bodily injury and One Hundred Thousand Dollars (\$100,000) property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### **Sec. 6-4-13 Review by Village Board.**

The Village Board shall have the right to review the conduct, acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Village Board who may hear the matter and make final decision.

### **Sec. 6-4-14 Penalty.**

Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty subject to a forfeiture not to exceed Five Hundred Dollars (\$500.00). If as a result of the violation of any provision of this Chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on Village-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens", as published by the International Society of Arboriculture.

This ordinance shall take effect and be in force one day after its passage and posting as provided by law.

PASSED AND ADOPTED by the Fredonia Village Board, Ozaukee County, Wisconsin,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

FREDONIA VILLAGE BOARD

\_\_\_\_\_  
Charles Lapicola, Village President

ATTEST:

\_\_\_\_\_  
Village Clerk