

Chapter 427. Trees and Shrubs

[HISTORY: Adopted by the Bellevue Board 9-25-2013 by Ord. No. O-2013-10 (§ 8.24 of the 1998 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Housing and residential property maintenance — See Ch. 258.

Nuisances — See Ch. 326.

Streets and sidewalks — See Ch. 404.

Subdivision of land — See Ch. 410.

§ 427-1. Purpose.

Having determined that a well managed urban forest provides many benefits to the Village, it is hereby declared to be the policy of the Village of Bellevue, Wisconsin, to regulate and control the planting, removal, maintenance, and protection of trees and shrubs upon or in all public areas of the Village in order to:

- A. Promote and enhance the aesthetics and general welfare of the Village.
- B. Eliminate and guard against dangerous conditions which may result in injury to persons using public areas of the Village.
- C. Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.
- D. Protect all trees and shrubs from the damaging effects of construction, alteration or repair of utility facilities and other improvements in any public area.
- E. Guard all trees and shrubs, both public and private, within the Village against the spread of disease, insects, or pests.
- F. Prevent damage to any public sewer, water main, street, sidewalk, or other public property.

§ 427-2. Authority and power.

The following entities are hereby established and have authority to administer the provisions of this chapter:

A. Tree Board.

- (1) Establishment. The Village of Bellevue Park Commission shall function as the Village of Bellevue Tree Board (hereinafter "Tree Board"). Its functions and duties are limited to those set forth in this chapter.
- (2) Duties and responsibilities. The Tree Board shall have the following duties and responsibilities:
 - (a) The Tree Board, with the assistance of the Village Forester, shall prepare for Village Board approval an Urban Forestry Strategic Plan. The Urban Forestry Strategic Plan shall outline urban forestry program activities for a minimum of five years. This plan shall describe the

urban forestry activities to be undertaken by the Village, the reasons for those activities, the possible funding source(s), and the means of accomplishing the activities, the alternatives available to the Village to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed.

- (b) The Tree Board, with the assistance of the Forester, shall develop and periodically review and revise, as necessary, the Arboricultural Specifications Manual.
- (c) The Tree Board shall advise and consult the Forester on any matter pertaining to this chapter and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
 - [1] Recommend for Village Board approval amendments to this chapter, development, alterations and/or revisions to the Arboricultural Specifications Manual, and/or other related Urban Forestry Plans;
 - [2] Policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the Village;
 - [3] Recommendation for the allocation of funds to the Tree Program, and expenditures of funds by the Tree Program;
 - [4] Establishment of educational and informational programs; and
 - [5] Development of policies and procedures regarding the Tree Program.
- (3) The Tree Board, upon request, shall hear all issues of disputes which arise between the Village and any such person whenever those issues involve matters or the interpretation or enforcement of the Arboricultural Specifications, Urban Forestry Plans and Programs or of the interpretation or enforcement of this chapter.

B. Village Forester.

- (1) Establishment. The Director of Parks and Leisure Services or his/her designee shall function as the Village Forester.
[Amended 7-9-2014 by Ord. No. O-2014-12]
- (2) Duties. The Village Forester shall perform the following duties:
 - (a) Manage the urban forestry program. The Village Forester shall implement, monitor and evaluate the Urban Forestry Program. The Village Forester shall manage the planting, removing, maintaining and protecting of all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, public ways and to protect life and property.
 - (b) Provide urban forestry education and awareness. The Village Forester shall implement a program of public education and awareness that will encourage the planting, maintenance and removal of trees and shrubs on private property in furtherance of the goals of the Urban Forestry Program.
 - (c) Issuance of permits. The Village Forester shall issue permits as are required by this chapter. The Village Forester shall have the right to inspect all work performed pursuant to such permits.

§ 427-3. Applicability.

This chapter provides full power and authority over all trees and shrubs which now or which may hereafter be located within all public areas and to trees and shrubs located on private property that constitute a hazard or threat as described herein.

§ 427-4. Definitions.

In this chapter, unless the context clearly requires otherwise, the following words and phrases shall be defined as follows:

ARBORICULTURAL SPECIFICATIONS MANUAL

The urban forestry document for the Village that serves as a standard for the planting, maintaining, removing and protecting of all trees in public areas by identifying specific practices, policies and procedures.

CLEAR-VISION TRIANGLE

As defined in § 500-410A.

[Amended 10-24-2018 by Ord. No. O-2018-13]

COMMISSION

The Park Commission of the Village of Bellevue as constituted under the Code of the Village of Bellevue.

MAINTENANCE AND PROTECTION

Includes all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling and cutting any tree or shrub above or below ground.

PERMIT

Written permission from the Village Forester to perform maintenance and protection on any public tree or shrub, or do construction (as defined in § 427-7) in the vicinity of any public tree or shrub. Any permit may include specifications which shall be complied with and any special provisions applicable to the purpose of the permit.

PERSON

Any individual, firm, partnership, association, corporation or government entity.

PUBLIC AREA

Includes all public ways, parks, and other lands owned, controlled, or leased by the Village.

PUBLIC NUISANCE

Any tree or shrub or part thereof which by reason of its condition and location has been declared to be a public nuisance under § 427-8 of this chapter.

PUBLIC TREES AND SHRUBS

Any tree or shrub, as herein defined, presently or hereafter planted in or upon any public area.

PUBLIC WAY

Includes all public streets, roads, boulevards, median strips, alleys, and sidewalks.

SHRUB

A woody plant usually with multiple stems branched at or near the base, reaching a height of less than 12 feet.

STREET TREE

Any public tree presently or hereafter located in the public way between the curb and public sidewalk, or between the curbs of a median strip, or in the equivalent location with respect to future curb, sidewalk or median strips where such curbs or sidewalk are not yet installed.

TREE

A woody plant usually with a single stem unbranched at the base, reaching a height of 12 feet or more.

TREE BOARD

The group of individuals appointed by the Village under § **427-2A** of this chapter designated to enforce the provisions of this chapter.

URBAN FORESTRY MANAGEMENT PLAN(S)

The urban forestry document(s) that establish specific field operations of the urban forestry program. Management plans identify and prioritize site specific tree planting, maintenance, removal and abatement activities within a multiyear time frame.

URBAN FORESTRY STRATEGIC PLAN

The urban forestry document for the Village that establishes the overall goals and objectives of the urban forestry program.

VILLAGE

The Village of Bellevue, Wisconsin.

VILLAGE FORESTER

The person designated by the Village under § **427-2B** of this chapter or his/her duly authorized representative designated to perform inspection or otherwise enforce the provisions of this chapter.

§ 427-5. Standards and specifications for tree planting, maintenance, protection and removal.

The following document, in its entirety, is hereby adopted and made a part of this section: "Village of Bellevue Arboricultural Specifications Manual."

§ 427-6. Street tree planting plan.

- A. Plan for the orderly planting of trees. The Village Board may establish a plan for the orderly planting of trees in the terraces or boulevards along Village streets to reduce conflicts between trees and other public use of streets, to facilitate care of the trees, and to make the Village a more attractive place in which to live. The plan shall take into consideration the recommendations of the Urban Forestry Management Plan and Arboricultural Specifications Manual when determining species, size, and location of trees.
- B. Planting along established streets. When, in the opinion of the Tree Board, with approval from the Village Board, the street right-of-way or terrace of any established street can be improved by planned tree planting, existing trees have been removed due to the moving or construction of buildings or roadways or when the number of trees in any street right-of-way or terrace has become so few as a result of normal removal or other cause, the Village may plant or cause to be planted such trees in the street right-of-way or terraces as it deems necessary. The cost of replanting in the street right-of-way or terrace shall be assessed against owners of adjacent property in the same manner as other special assessments.
- C. Planting of trees when streets are reconstructed. When streets are fully reconstructed, new trees shall be planted if, in the opinion of the Village Forester, there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of these new trees shall be assessed against owners of adjacent property in the same manner as other special assessments. The number and location of each tree, species and size of stock are to be determined by the Village Forester.
- D. Planting of replacement trees. When trees are removed for the widening of any established street, for death or illness of the tree or the abatement of a nuisance, replacement trees shall be planted if, in the opinion of the Village Forester, there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of replacing these trees will be at the expense of the

Village. The number and location of each tree, species and size of stock are to be determined by the Village Forester.

- E. New subdivisions tree planting. The Village shall require street trees for all new subdivisions in the Village. A linear curb fee shall be charged per a developer agreement, collected and placed in an escrow account for trees. The fee shall be approved by resolution. After an occupancy permit has been issued and lawn established for any house in the development, trees shall be selected and planted in the terrace by the Village at the next most appropriate planting season. The number and location of each tree, species and size of stock are to be determined by the Village Forester.
[Amended 10-24-2018 by Ord. No. O-2018-13]
- F. Neighborhood tree planting program. The Village of Bellevue shall provide a neighborhood tree planting program for residents who wish to have trees planted in the terrace area adjacent to their property. The planting program will be offered in the fall and runs concurrent with other fall plantings. The resident pays for the wholesale cost of the tree, including planting.
- G. Public tree planting. Should any owner of adjacent property desire to plant a tree on any public property, written permission shall be obtained from the Village Forester in which the number, species, location and size of the tree shall be designated. The cost of such planting shall be borne by the adjacent property owner.
- H. Planting along unimproved streets. Trees shall not be planted in the terrace on unimproved streets or where no curb and gutter exist.

§ 427-7. Permits.

- A. Scope of requirement. No person except the Village Forester or authorized agent of the Village may perform any of the following acts without first obtaining from the Village Forester a permit (free of charge), and nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:
 - (1) Remove, destroy, cut, deface or injure any tree existing in the public area or attach any rope, wire, chain, sign or any other device to any public tree.
 - (2) Plant, prune, fertilize or spay any tree or shrub existing on any public area in the Village or authorize or cause the same to be done.
 - (3) Place or maintain upon the ground in any public area any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water.
- B. Issuance. Within 14 days of receipt of the application, the Village Forester may issue a permit to perform, within 30 days of the day of issuance, any of the acts specified in Subsection A immediately above, for which a permit is requested whenever:
 - (1) Such acts would result in the abatement of a public nuisance; or such acts are not inconsistent with the development and implementation of the Urban Forestry Management Plan or with any regulations or standards of the Arboricultural Specifications Manual; and
 - (2) An application has been signed by the applicant and submitted to the Village Forester detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Village Forester may find reasonably necessary; and
 - (3) The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this chapter, the Urban Forestry Management Plan and with the regulations and standards set forth in the Arboricultural specifications Manual; and
 - (4) The applicant certifies that he/she has read and understands those provisions of the Urban Forestry Management Plan, this chapter and the Arboricultural Specifications Manual which

are pertinent to the work for which the permit is sought.

§ 427-8. Public nuisances.

A. Definition. The following are hereby declared public nuisances under this chapter:
[Amended 3-27-2019 by Ord. No. O-2019-11]

- (1) Any dead or dying tree, shrub, or other plant, whether located on Village-owned property or on private property that is the cause of substantial annoyance to the general public;
- (2) Any otherwise healthy tree, shrub, other plant or portion thereof, whether located on public areas or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant;
- (3) Any tree, shrub, other plant, or portion thereof, whether located on public areas or on private property, which by reason of location or condition constitutes a potential danger to the health, safety, or welfare of the general public;
- (4) Any tree, shrub, or other plant or portion thereof, whether located on public areas or on private property, which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on Village property;
- (5) Any tree, shrub or other plant or portion thereof, whether located on public areas or on private property, which dangerously obstructs the view as such may be determined by the Village Forester pursuant to this chapter;
- (6) Any tree, shrub or other plant or portion thereof, whether located on public areas or on private property which is or will be impacted as a result of a publicly funded construction project.

B. Right to inspect. The officers, agents, servants, and employees of the Village have the authority to enter onto private property, after prior notification to property owner, whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

C. Abatement. The following are the prescribed means of abating public nuisances under this chapter:

- (1) Any public nuisance under this chapter which is located on public areas shall be pruned, removed, or otherwise treated by the Village Forester or agent of the Village in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
- (2) Any public nuisance under this chapter which is located on private-owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
 - (a) The Village Forester or agent of the Village 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 last preceding year;
 - (b) Such notice shall describe the kind of tree, shrub, or the plant or plant part which has been declared to be a public nuisance, its location on the property and the reason for declaring it a nuisance;
 - (c) Such notice shall describe by legal description or by common description the premises;
 - (d) Such notice shall state the actions that the property owner may undertake to abate the nuisance;

Nothing is required
Such notice will require the elimination of the nuisance **no less than 30 days after the notice is delivered** or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.

- (3) In the event that the nuisance is not abated by the date specified in the notice, the Village Forester or agent of the Village is authorized to cause the abatement of said nuisance.
- (4) The Village Forester is empowered to cause the immediate abatement of any public nuisance, provided that the nuisance is determined by the Village Forester or agent of the Village to be an immediate threat to any person or property.

§ 427-9. Interference with Village.

It shall be unlawful for any person to prevent, delay, or interfere with the Village or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees or trees and shrubs from any public area or trees and shrubs on private property as authorized by this chapter.

§ 427-10. Violations and penalties, claims, and appeals.

- A. Except as otherwise provided, any person found in violation of this chapter or any order, rule or regulation made hereunder shall be subject to the penalty provided in § 1-4 of the Code of the Village of Bellevue.
[Amended 7-9-2014 by Ord. No. O-2014-12]
- B. Assessment of claim. In the event that a nuisance is not abated by the date specified in the notice, the Village Forester is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.
- C. Appeal. Any party who elects to dispute any action or decision by the Village Forester or Tree Board shall be entitled to appeal to the Village Board for a final determination.