

**CHAPTER 16  
PARKS AND RECREATION**

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***SUBCHAPTER I – PARKS AND RECREATION***

**16.01 PARK REGULATIONS.**

(1) **PURPOSE AND INTENT.** The regulations set forth in this chapter are intended to protect and preserve the parks, parkways, recreational facilities and conservancy areas within the Village from injury, damage or desecration and to provide for the maintenance of certain park areas designated by the Village Board in a natural state.

(2) **DEFINITIONS.** As used in this chapter,

(a) “Ball Diamond” shall mean park facilities designed and improved primarily for use as baseball or softball fields for practice and/or competition.

(b) “Community Gardens” shall include all grounds and structures owned by the Village that the Village makes available for the noncommercial raising of vegetables, fruits, flowers and herbs for personal consumption or use.

(c) “Director” shall mean the Village’s Director of Public Services.

(d) “Long Field” shall mean a park facility designed primarily for use as football, soccer, rugby or similar turf sports.

(e) "Motorized Vehicle" shall mean any motor vehicle as defined by §340.01(35), Wis. Stats., licensed for highway use, including neighborhood electric vehicles as defined by §3.115 of this Code, but excluding snowmobiles and all-terrain vehicles.

(f) "Motorized Equipment" means any vehicle, as defined by §340.01(74), Wis. Stats. other than a motor vehicle, and any other machinery or equipment powered by an internal combustion engine or electric motor designed to transport persons or movable property, other than an electric wheelchair used by a person with a disability. The term includes, but is not limited to, all-terrain vehicles, snowmobiles, construction equipment, motorized bicycles or skateboards, electric personal assistive mobility devices, riding lawn mowers, garden tractors and motorized farm equipment.

(g) "Parks" shall include all grounds, structures and water courses which are or may be located within any area dedicated to public use as a park, parkway, recreational facility or conservancy district in the Village.

(h) "Person" shall mean any individual, group of individuals, corporations or other legal entity.

(i) "Prairie Area" shall mean any park or detention basin so designated by resolution of the Village Board to be established, preserved or maintained in a natural prairie state.

(i) "Sanctioned Program" shall mean a league, recreational program or other group officially recognized by the Village as organized and operated to promote athletics without profit and more than 50% of whose membership is comprised of Village of DeForest residents.

[Am. 22-05, Eff. 3-2-22]

(k) "Local Adult League" shall mean a formal or informal group of adult athletic teams, at least one of which is comprised primarily of Village residents, which arranges regularly scheduled competitions among its member teams.

[Cr. 93-39, Eff. 10-8-93; Am. 19-08, Eff. 4-4-19]

### (3) SPECIFIC REGULATIONS.

#### (a) Park Hours.

1. Public parks within the Village shall be open to the public beginning at 7:00 a.m. daily and shall be closed, and all activities therein shall be terminated, at 10:00 p.m. daily. No person shall enter or remain in any park at any time other than as provided in this section, unless specific written authority is first obtained from the Director of Recreation and Community Enrichment.

[Am. 21-01; Eff. 2-12-21]

2. The Village Board may extend the hours of operation for any park for a specified event. Any such extension shall specify the date and description of the event, the alternative opening or closing time approved and any restrictions imposed by the Village Board as a condition of the extension.

[Am. 02-41, Eff. 11-21-02]

(b) Smoking. No person shall smoke or hold a lighted cigarette, cigar or pipe in any structure within any park, or in any other area in any park where notices prohibiting smoking are posted pursuant to any order of the Village Board.

[Am. 15-02, Eff. 1-16-15]

(c) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park, except that any person lawfully using Community Gardens may deposit weeds and plant materials gathered from the Community Gardens in designated compost areas, and may apply compost, mulch and other customary horticultural substances and materials to the person's assigned Community Garden plot.

[Am. 13-09, Eff. 4-3-13]

(d) Sound Devices. No person shall operate or play any amplifying system unless specific written authority is first obtained from the Director of Recreation and Community Enrichment.

[Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(e) [Repealed 13-11, Eff. 06-28-13]

(f) Bill Posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Village Board.

[Am. 15-02, Eff. 1-16-15]

(g) Throwing Stones and Missiles Prohibited. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park. This paragraph shall not apply to persons acting within the scope of specific permission from the Village Board in connection with a program of urban wildlife control approved by the Board.

[Am. 06-01, Eff. 2-7-06]

(h) Firearms, Fireworks, Bows and Arrows. No person shall shoot, fire or discharge any gun or pistol, nor possess, shoot, fire or discharge any rocket, torpedo, missile, bow and arrow, crossbow, slingshot or any fireworks or explosive device of any description, within or into any park unless specific written authority is first obtained from the Village Board. The word "gun" shall include firearms, gas-operated guns, pellet guns or any other device which will propel projectiles.

[Am. 01-49, Eff. 11-8-01; Am. 06-01, Eff. 2-7-06; Am. 15-02, Eff. 1-16-15]

(i) Golf, Hardball. No person shall shoot or strike a golf ball or throw or bat a hardball in any park, except that hardball may be played in areas designated for this purpose.

(j) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables or other park equipment from any park.

(k) Camping. No camping shall be permitted in any park, except when prior approval of the Village Board is first obtained.

[Am. 15-02, Eff. 1-16-15]

(l) Trapping. No person shall trap in any park unless specific written authority is first obtained from the Village Board.

[Am. 15-02, Eff. 1-16-15]

(m) Making of Fires. Except as provided in sec. 5.23 of this Code, no person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.

[Am. 93-39, Eff. 10-8-93; Am. 14-01, Eff. 1-17-14]

(n) Horse and Carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Village Board is first obtained. It shall be unlawful for any person to ride a horse or drive a horse-drawn vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others.

[Am. 15-02, Eff. 1-16-15]

(o) Bicycles. All ordinances of the Village relating to the use of bicycles shall be applicable in all parks. Bicycles shall be parked only in areas so designated.

(p) Interference With Permittee Prohibited. No person shall in any manner, harass, disturb or interfere with persons holding written permits granted by the Village Board for the use of parks, shelter areas or park facilities.

[Am. 15-02, Eff. 1-16-15]

(q) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.

(r) Use of Water Areas. No person shall swim, wade, fish, ice skate or operate or propel a boat or canoe in any lagoon or watercourse within any park except in areas so designated and at times posted.

(s) Drinking in Parks Regulated. See sec. 10.03(6)(d) of this Code.

(t) Glass Beverage Bottles in Parks Prohibited. No person shall possess any glass beverage bottle within the limits of the parks of the Village.

(u) Persons Walking Animals Required to Remove Fecal Matter. The owner or person in charge of any animal shall not permit solid fecal matter of said animal to be deposited in any park unless such matter is immediately removed therefrom by said owner or person in charge.

[Cr. 95-3, Eff. 2-6-95]

(4) **MOTOR VEHICLES AND EQUIPMENT.** (a) **General.** Except for emergency vehicles, no person shall operate a motorized vehicle within a Village park outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically authorized. Motorized vehicles are restricted to the roads, drives and parking

areas. No motorized vehicles of any nature may be used on grassy areas except vehicles which have authorization for shows, rides or exhibits. This section shall not apply to the use of motorized vehicles for maintenance by Village staff or by the holder of a permit granted under §16.02 while maintaining a reserved diamond under authorization by the Director of Public Services. [Am. 15-02, Eff. 1-16-15; Am. 21-06, Eff. 4-23-21]

(b) Authorized Equipment. Paragraph (a) shall not apply to the operation of motorized vehicles on public trails located within parks to the extent authorized by §3.118.

[Sub. (4) Cr. 11-01, Eff. 2-3-11; Am. 11-09, Eff. 3-17-11; Repl & recr. 11-15, Eff. 4-29-11; Am. 13-09, Eff. 4-3-13; Am. 21-06, Eff. 4-23-21]

## (5) ADMINISTRATIVE RULES.

(a) Adoption of rules. In addition to the general rules set forth in sub. (3), the Director of Recreation and Community Enrichment or the Village Administrator may promulgate administrative rules governing the use of parks and park facilities within the Village. Such rules shall be made with the purposes of protecting the health, safety, comfort and welfare of the users of the parks and facilities and others who may be affected by activities occurring in the parks, and of minimizing adverse impacts to the parks, park facilities and surrounding properties. Rules promulgated under this section shall take effect immediately upon posting of the rules at the affected facility, and shall continue in effect until rescinded by the officer adopting the rule or the Village Board.

[Am. 08-30, Eff. 10-9-08; Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(b) Enforcement. The Director of Recreation and Community Enrichment, the Chief of Police or any law enforcement officer designated by the Chief, may suspend any person from further use of any park for violation of any rules adopted under par. (a). Such suspension shall remain in effect for the duration thereof as determined by the Director, Chief or officer when the suspension is imposed. The imposition of a suspension under this paragraph may be appealed to the Administrative Review Appeals Board under the provisions of Chapter 17 of this Code. The pendency of an appeal shall not stay a suspension. The Director shall refer any rule violations which also constitute violations of any ordinance of the Village to the Police Department for citation and prosecution.

[Am. 08-30, Eff. 10-9-08; Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(d) The Public Services Committee may establish a sub-committee with membership as determined by the Committee, to consider and make recommendations to the Committee on matters related to Community Gardens and to provide horticultural advice and information to Community Garden users. Any such sub-committee shall be comprised solely of volunteers and shall not be considered a standing committee of the Village.

[Cr. 13-09, Eff. 4-3-13; Am. 15-02, Eff. 1-16-15; Am. 19-013, Eff. 7-26-19]

## 16.02 USE OF PARKS; PERMITS.

(1) The municipality owned parks, park facilities and shelter areas in the Village are primarily for the nonexclusive use of the residents of the Village. However, under proper circumstances, exclusive use of the same may be permitted. This section is intended to regulate exclusive use of municipally owned parks, park facilities and shelter areas in the Village to the end that the general welfare of the Village is protected.

(2) A person or group, firm, organization, partnership or corporation may request the exclusive right to use a park, park facility or shelter area located in the Village for a specified time by written application filed with the Director. The Director may approve the exclusive use of a plot in established Community Gardens by any person from May 1 until the last Sunday in October of a given year on terms and conditions approved by the Director.

[Am. 13-09, Eff. 4-3-13; Am. 15-02, Eff. 01-16-15; Am. 21-01; Eff. 2-12-21]

(3) Applications, other than for use of Community Garden plots, shall contain the following information regarding the proposed exclusive use:

(a) The name, address and telephone number of the applicant.

(b) If the exclusive use is proposed for a group, firm, organization, partnership or corporation, the name, address and telephone number of the headquarters of the same, and the responsible and authorized heads or partners of the same.

(c) The name, address and telephone number of the person who will be responsible for the use of said park, area or facility.

(d) The date when the exclusive use is requested and the hours of the proposed exclusive use.

(e) The anticipated number of persons to use said park, area or facility.

(f) Any additional information which the Director finds reasonably necessary to a fair determination as to whether a permit should be issued or the appropriate fee classification to be applied.

[Am. 13-09, Eff 4-3-13; Am. 15-02, Eff. 01-16-15]

(4) The Director may approve an application under this section upon such conditions as he or she may deem necessary to protect the public health, welfare and safety and the property of the Village, upon payment of the appropriate fee established under §16.021.

[Am. 95-3, Eff. 2-6-96; Am. 15-02, Eff. 01-16-15]

(5) An application under this section shall be denied for any of the following reasons:

(a) The proposed use may involve a violation of Federal or state law or any provision of this Code.

(b) The granting of the permit would conflict with another permit already granted or for which application is already pending.

(c) If the application does not contain the information required by sub. (3) above.

[Am. 15-02, Eff. 01-16-15]

(6) The application may be denied for any of the following reasons:

(a) The applicant is not a resident of the Village.

(b) The application is for use by a person other than a local adult league, and the Director determines that granting of the permit is likely to interfere with the availability of the facility for use by a local adult league.

(c) The proposed use is likely to materially interfere with a previously approved use of another park facility by another person or the general use of other areas of the park by Village residents.

(d) The proposed use may reasonably be expected to create a significant burden on law enforcement or other public services.

(e) The exclusive use may reasonably be anticipated to create a substantial risk of injury to persons or damage to property.

(f) The exclusive use is not sufficiently organized to minimize the risk that participants or others may engage in aggressive or destructive activity.

(7) Prior to granting any permit, the Director may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants. Whether or not sureties are required, the permittee shall fully reimburse the Village for any expenses it incurs to repair any damage (beyond normal wear) to the park or park facilities, to clean the reserved area at the expiration of the permit, to replace any keys or re-key any locks upon a failure of the permittee to return all keys to the Village and any cost incurred in obtaining such reimbursement, including reasonable attorney fees.

[Am. 05-04, Eff. 1-20-05; Am. 15-02, Eff. 01-16-15]

(8) A permit is not required for exclusive use of a park, park facility or shelter area for an event or gathering sponsored by the Village.

[Am. 11-01, Eff. 2-3-11]

(9) The Director, after granting a permit, or, in any event, the Village Board, may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by major change in the conditions forming the basis of the issuance of the permit.

[Am. 15-02, Eff. 01-16-15]

(10) Each permit shall be in a form prescribed by the Director and shall designate the park, park facility or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use and the name of the person, group, firm, organization, partnership or corporation to which the permit is issued. [Am. 19-08, Eff. 4-4-19]

#### **16.021 PERMIT FEES AND DEPOSITS.**

(1) All applications for park use permits shall be accompanied by a fee and key/cleanup deposit as established by the Village Board from time to time by resolution.

## (2) FIELD MAINTENANCE.

(a) Use of Machinery. All preparatory and maintenance work on ball diamonds, long fields or other park areas requiring the use of motorized vehicles or equipment shall be performed only by authorized Village personnel. The Director shall, to the extent practicable, make such personnel available from time to time during the term of the permit as requested by a permit holder at the time of issuance of the permit. The Director shall charge a fee of \$30.00 per hour for each individual worker for the time so requested, which shall be payable at the time of issuance of the permit. The fee shall be calculated based on one-hour increments and any fraction of an hour shall be calculated as a full hour. If maintenance services are requested for more than one interval of time, the fee for each interval shall be separately calculated. Upon conclusion of the permit period, the Director shall determine the actual amount of time spent at the request of the permit holder and if the total charges exceed the amount previously paid, shall provide a report to the Village Finance Director, who shall invoice the permit holder for the balance due. Any amount so invoiced shall be payable within 30 days of the date of invoice.

(b) Supplies. In addition to all other fees required by this section, a permittee reserving a baseball or softball diamond shall pay the Village for all diamond drying agents determined necessary by the Director, or requested by the permittee, and used to improve playing conditions on the field during the reserved time.

(3) DEPOSITS. Deposits made pursuant to this subsection shall be returned to the applicant if the facilities for which the permit was issued are surrendered in a clean and undamaged condition upon expiration of the permit and all keys issued for access to the facilities are returned to the Village on the next business day. In the event the permittee is liable to the Village for any loss or damage as provided in §16.02(8), the amount thereof may be retained from the deposit and the balance, if any, returned to the permittee. Any deposit retained shall be deemed partial satisfaction of the permittee's liability to the Village and neither the retention of the deposit nor return thereof shall preclude the Village from recovering the balance of the amount due.

(4) SCHEDULING FEES. The Director or designee shall collect an annual fee for the scheduling of practices for all teams organized by a sanctioned program. The fee shall be \$25.00 per age group division included in the program. The Director or designee is authorized to designate an organization as a sanctioned program upon determining that it meets the criteria in §16.01(2)(i). Any person or organization aggrieved by a determination of the Director may appeal the decision to the Village Board. [Am. 22-05, Eff. 3-2-22; Am. 22-023, Eff. 9-7-22 and renum. by revisor]

## **16.022 USE OF VILLAGE RECREATIONAL EQUIPMENT AND MATERIALS.**

[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15]

(1) GENERAL. The Parks, Recreation & Natural Resources Department may make available to the general public, recreational equipment and educational materials owned by the Village as provided in this section. The Department shall establish reasonable rules governing the loaning of such equipment and materials, including the length of time they may be retained, the care and use thereof, and other matters designed to assure the preservation of the equipment and materials in good condition and to reasonably maximize their availability to other residents.

[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15]



(2) **AUTHORIZED EQUIPMENT AND MATERIALS.** The Department may loan the following equipment to the general public at the rates provided herein. The Department shall require a deposit in the amount provided herein for each set of equipment and materials loaned, which shall be fully refundable if all equipment and materials are returned without damage and otherwise in accordance with the rules of the Department. In the event any of the equipment or materials is lost or damaged, the Department shall retain from the deposit the amount necessary to repair or replace the lost or damaged items, and refund the balance. The Department may adopt rules providing for the forfeiture of a portion of the deposit in the event the equipment and materials are not returned when due, with the sole purpose of encouraging compliance with adopted rules.

<b>Equipment</b>	<b>Rental Rate</b>	<b>Deposit</b>
Birdwatching equipment and educational materials	\$0.00/ 6-day	\$150.00
Bocce Balls	\$20.00/ 3-day	\$50.00
Bean Bag Toss Game	\$20.00/ 3-day	\$50.00
Giant Jenga	\$20.00/ 3-day	\$50.00
Giant Connect Four	\$20.00/ 3-day	\$50.00
Giant Checkers	\$20.00/ 3-day	\$50.00
Giant Yahtzee	\$20.00/ 3-day	\$50.00
Snow Shoes	\$10.00/ 3-day	\$50.00

[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15; Am. 20-05, Eff. 1-22-20]

#### **16.025 DOG PARKS.**

(1) **Applicability.** This section applies only to those parks designated by the Village Board as “dog parks.”

(2) **Dog Park Usage.** Dogs are permitted to run unleashed in any designated dog park within the Village, subject to the following conditions:

(a) Dogs must remain on a leash while outside the designated off-leash area of any dog park.

(b) The owner or keeper of the dog must be present at all times while the dog is in the dog park and in proximity to the dog to maintain visual supervision and voice contact;

(c) The dog must be under the voice control of the owner or keeper at all times;

(d) No owner or keeper of dogs shall have more than 3 dogs under his or her supervision at any one time.

(e) The dog must have attached to its collar a valid permit tag issued under sub. (3) or the person supervising the dog must have in his or her possession a valid daily pass issued according to rules established by the Village Board.

(f) Aggressive dogs are prohibited from the dog parks and any dog exhibiting aggressive behavior shall be immediately removed from the park.

(g) Dog parks shall be closed from sunset to sunrise each day.

(h) No animals other than dogs are permitted in the dog parks.

(i) No female dog shall be allowed in the dog parks when in heat.

(j) No food, glass containers or smoking are permitted in the dog parks.

(k) The dog must have a current dog license tag issued by the Village or another governmental agency, or the person supervising the dog must have in his or her possession written proof that the dog is currently vaccinated against rabies.

(L) Use of the dog parks shall be subject to administrative rules under §16.01(5).  
[Am. 19-013, Eff. 7-26-19]

(3) Annual Permit Tags. Annual permit tags shall be issued by the Village Clerk and shall be valid for the remainder of the calendar year during which they are issued. Permit tags shall be issued to Village residents without charge at the time of issuance or renewal of each dog license under §9.07(3)(b).

(4) Permit Fees. Dog park permit tags or daily passes may be purchased for any dog not licensed by the Village. The fee for an annual tag shall be \$20 for the first dog and \$5 for each additional dog under the ownership or control of the same person, and such tags shall be valid for the remainder of the calendar year during which they are issued. Daily passes shall be available for a fee of \$3.00 for each dog.  
[Am. 14-36, Eff. 12-16-14]

(5) Replacement Tags. A replacement permit tag shall be available for a fee of \$3.00 upon certification by the owner that a properly issued annual tag has been lost or destroyed.

(6) Use of Permit Tags. No person shall permit a permit tag issued for one dog to be attached to the collar of another dog, or obtain a replacement tag unless an original tag for the same dog has been lost or destroyed. No person shall possess a permit tag unless that person is the owner or keeper of the dog for which the tag was issued.

(7) Any person violating any provision of this section shall be subject to forfeitures as provided in §20.04.  
[Cr. 13-24, Eff. 9-27-13]

### **16.03** [Reserved]

**16.04 PENALTY.** Any person who violates any provisions of this subchapter, including a violation of any suspension issued under §16.01(4)(b), shall be subject to a penalty as provided in sec. 20.04 of this Code.  
[Renum. 93-39, Eff. 10-8-93; Am. 08-22, Eff. 6-19-008]

## **SUBCHAPTER II – URBAN FORESTRY**

[Subch. II Repl. & Recr. 09-25, Eff. 2-1-10]

**16.20 PURPOSE & INTENT.** This subchapter establishes policies, regulations and standards necessary to insure that the community will continue to realize the benefits provided by its urban forest. Activities regulated include, but are not limited to, the planting, transplanting, removal, maintenance and protection of trees and shrubs within the Village in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, sidewalks or other public property; to promote and enhance the beauty and general welfare of the Village; to prevent damage to any public sewer, water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and/or unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the Village against the spread of disease or pests. It is the intent of the Village Board that the provisions of this subchapter shall apply to all the trees, shrubs, or plants growing in or upon any public right-of-way or other public lands and to all trees within the boundaries of the Village.

**16.21 DEFINITIONS.** The following terms, as used in this subchapter, shall be defined as follows:

(1) “Public Tree” shall mean any tree located within a public right-of-way or upon any other lands owned or leased by the Village whether acquired by lease, purchase, gift, dedication, condemnation or otherwise.

(2) “Shrub” shall be defined as provided in §15.06(2)(i) of this Code.

(3) “Tree” shall mean any woody plant usually with a single stem unbranched at the base, reaching a height of fifteen (15) feet or more.

(4) “Tree Advisory Board” shall mean the board established under §16.22 and charged with implementation of this subchapter.

### **16.22 TREE ADVISORY BOARD.**

(1) **CREATION AND MEMBERSHIP.** The DeForest Tree Advisory Board is hereby established to administer this subchapter. The Village Board shall serve as the Tree Advisory Board.

[Am. 19-013, Eff. 7-26-19]

(2) **POWERS AND DUTIES.** The Tree Advisory Board shall:

(a) Provide for the care of all trees and shrubs planted in the rights-of-way of all streets or highways, or in any park or other public areas of the Village;

(b) Prepare an urban forestry management plan, which shall include provisions for the planting, maintenance and protection of all public trees, and make amendments thereto as the Tree Advisory Board shall determine appropriate from time to time;

[Am. 19-013, Eff. 7-26-19]

(c) [Reserved ]

(d) Prepare and maintain an inventory of trees and shrubs located in public areas within the Village and on private property along streets where street trees cannot be planted due to site limiting factors;

(e) Adopt rules and regulations for the protection and maintenance of trees and shrubs located on public property, and to protect the public health, safety and welfare against dangers resulting from any trees and shrubs, including any regulations deemed necessary to protect against injury or damage caused by the spread of disease, insects or fungus;

(f) Identify, improve and promote desirable tree and shrub species within the Village;

(g) Identify and maintain a list of tree and shrub species deemed to be nuisances due to their propensity to harbor pests or transmit diseases which endanger other trees or shrubs or the public health, safety and welfare. Any trees or shrubs so listed by the board shall be deemed public nuisances within the meaning of §11.01 of this Code;

(h) Apply for county, state, federal and private grant funds for the Village's urban forestry program;

(i) [Reserved]

(j) Provide a forum for, and encourage, public comments on Village tree and shrub projects and the urban forestry program;

(k) Encourage public participation in urban forestry practices and projects within the Village and the surrounding extraterritorial area;

(l) Conduct an Arbor Day observance each year;

(m) Inform and educate Village residents about the care of natural areas in their neighborhoods;

(n) Undertake programs for education of the public with regard to the benefits of urban trees, the proper selection, planting and care of urban trees and other matters relating to urban forestry as it deems appropriate;

(o) Maintain the "Tree City USA" status of the Village;

(p) Provide plan review and technical assistance to the Planning & Zoning Commission or any other board, committee or commission of the Village upon request, and provide technical advice and assistance with respect to matters affecting the urban forest to the public on such terms and conditions as determined by the board.

(3) LIMITATION ON REGULATIONS. Except as provided in sub. (4), and notwithstanding the provisions of sub. (2), the regulations established by the Tree Advisory Board shall not apply to the extent they conflict with the applicable provisions of §15.06. The planting of any tree or shrub required or approved by the Planning & Zoning Commission as part of a landscaping plan required under §15.06 shall not be prohibited by the regulations adopted by the Tree Advisory Board.

(4) **EMERGENCY AUTHORITY.** In addition to the general powers of the Tree Advisory Board, and without limitation by sub. (3), the Tree Advisory Board may issue emergency orders to temporarily prohibit, limit, or regulate the planting, pruning, spraying, fertilizing, cutting, removal or handling of any tree or shrub, any species of either, or any brush, wood or other materials derived therefrom, within the Village if deemed necessary to prevent threatened harm to any tree or shrub or to the public health, safety or welfare. Any such order shall not become effective until posted in at least 3 public places within the Village. The regulations shall be published as a Class I notice in the official Village newspaper as soon as practicable after their adoption and upon any amendment. If the order applies only to an individual property, the order shall not be enforced until a copy thereof is served upon the owner of such property by personal delivery or certified mail. Emergency regulations adopted pursuant to this subsection shall remain in effect for a period determined by the Tree Advisory Board.

[Am. 19-013, Eff. 7-26-19]

**16.23 VILLAGE FORESTER.** (1) **APPOINTMENT.** The Village Forester shall be appointed by, and shall serve at the pleasure of, the Village Board.

(2) **POWERS AND DUTIES.** The Village Forester, subject to the direction of the Tree Advisory Board and the Director of Public Services, shall have the following general powers and duties:

(a) To direct, manage, supervise, and control the Village's urban forestry program including the planting, removal, trimming, maintenance, and protection of all trees and shrubs in or upon all public areas of the Village.

(b) To enforce such rules, regulations, permit, and penalty procedures as deemed necessary and may do so by the issuance of administrative orders and/or municipal citations to effectuate the intent of this chapter.

(c) To inspect any trees, shrubs, vines, hedges, plants, logs or branches existing or growing upon any property within the Village and to conduct surveys to determine if any destructive or communicable disease or pest exists which may be detrimental to or endanger the good health and wellbeing of trees or other plant life in public areas. If entry upon private property is necessary to carry out such duties, the Village Forester may, unless granted permission for such entry by the owner or occupant, apply for and execute a special inspection warrant.

(d) To restrict or regulate tree maintenance activities within the Village limits to reduce the spread of infectious diseases and/or insects.

(e) To provide information to the public concerning the urban forestry program and tree and shrub care.

(f) To implement and direct a Village Urban Forestry Management Plan.

(2) **AUTHORITY TO PRESERVE AND REMOVE PUBLIC TREES AND SHRUBS.** The Village Forester shall have the authority to plant, remove, maintain, and protect all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, and to protect life and property.

**16.24 STANDARDS AND SPECIFICATIONS.** (1) The following standards and specifications, are hereby adopted and incorporated herein, and shall apply to all activities regulated by this subchapter:

(a) Forestry Specifications for Construction on Public Areas to be adopted by the Village Board with such amendments as may be approved by the Village Board from time to time.

(b) ANSI A300-1995 "American National Standard for Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices Part 6" or the most recent version thereof.

(c) ANSI Z60.1-1996 "American Standard for Nursery Stock" or most recent version thereof.

(d) The Village's list of prohibited trees and shrubs approved by the Tree Board under §16.22(2)(g).

[Am. 15-01, Eff. 1-20-15]

**16.25 PUBLIC NUISANCES, DECLARATION AND ABATEMENT.** (1) The Village Forester shall have the right to declare as a public nuisance any tree or shrub or part thereof, including firewood, existing anywhere in the Village which is:

(a) Interfering with the use of any public area,

(b) Infected with a plant disease,

(c) Infested with insects, or

(d) Endangering the life, health or safety of other trees/shrubs, persons or property located in public areas.

(2) Village Forester shall maintain and make available to the public a list of recommended and discouraged trees and shrubs along with the list of prohibited trees and shrubs prepared under §16.22(2)(g).

[Am. 15-01, Eff. 1-20-15]

(3) Abatement of Public Nuisances.

(a) Public Areas. All trees, shrubs or parts thereof on public property shall be subject to treatment and/or removal when it is determined by the Village Forester or his/her designee that the trees or shrubs constitute an immediate or future health or safety hazard or when they have become unsightly, infested, diseased or dead. The Village Forester or his/her designee shall have the discretion to determine the most appropriate course of action to prevent or treat such conditions.

(b) Private Premises. No person shall permit any nuisance tree or shrub as determined under §16.22(2)(g) or Chapter 11 of this Code to remain on any premises owned or controlled by such person within the Village. Upon determination by the Village Forester that any nuisance tree or shrub exists on any private premises, he/she shall order the owner or tenant having charge of such premises to treat, remove or otherwise control

such tree or shrub in such manner as will abate the nuisance. Within notice reasonable time as specified in the order, the person shall cause treatment, removal or control of the nuisance tree or shrub as directed in the order. If the owner or tenant, shall refuse or neglect to comply with the terms of the order within the time specified, the Village Forester shall cause the public nuisance to be abated and shall report the expense thereof to the Village Clerk who shall enter it as a special charge against the property upon which the nuisance is located. Interest as provided in §1.09 shall apply to all invoices issued under this paragraph.

[Am. 15-04, Eff. 1-19-15]

## **16.26 PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES AND SHRUBS.**

(1) **URBAN FORESTRY MANAGEMENT PLAN.** The Urban Forestry Management Plan adopted by the Tree Advisory Board may contain any or all of the following elements:

(a) **Street Tree Planting Plan.** A proposed plan for the orderly and systematic planting of new or replacement trees in the terraces or boulevards along Village streets in a manner which minimizes conflicts between trees and other public use of streets, facilitates care of the trees, and enhances the aesthetics of the Village streetscapes. The plan shall designate the appropriate species of tree(s) for each street segment and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, depth of building setbacks, location of street lights, safety signals and signs, the location of overhead or underground public utility facilities, the location of existing desirable trees and any other relevant site factors. The plan shall be consistent with the requirements of §15.06 of this Code.

(b) **Tree Maintenance.** Plans for the maintenance of trees located in public places to preserve the function or beauty of such public places in accordance with the applicable Village maintenance standards. The plan shall provide plans for the trimming, removal, pruning, spraying, fertilizing or other treatment of any tree on any public place when necessary or appropriate to promote the general welfare, improve the Village's appearance or alleviate any unsafe condition.

(2) **PROHIBITED ACTS.** It shall be unlawful for any person to:

(a) Remove, destroy, cut, deface or injure any tree existing on any public place in the Village;

(b) Attach any rope, wire, chain, sign or any other device to any tree on any public place in the Village except as approved by the Village Forester or the Village Board;

(c) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub, excluding routine winter street maintenance by Village Departments;

(d) Participate in the erection, alteration or removal of any building or structure in the Village without assuring that any tree upon any public place in the vicinity of such operation is provided with a good and sufficient guard or protection so as to prevent injury, damage or defacement to such tree arising out of, in connection with or by reason of, such

operation. The sufficiency of the guard or protection shall be determined by the Village Forester;

(e) Interfere with the Tree Advisory Board or the Village Forester when carrying out their responsibilities under this subchapter;

(f) Plant, move, remove, prune or otherwise maintain any public tree or shrub except pursuant to a permit issued by the Village Forester pursuant to sub. (3);

(g) Plant or maintain any tree or shrub which is prohibited or which is declared a nuisance pursuant to Chapter 11 of this Code or by regulation adopted by the Tree Advisory Board;

(h) Fail or refuse to comply with any lawful rule, regulation or order issued by the Village Forester or Tree Advisory Board under this subchapter.

(3) PERMIT REQUIRED. (a) The Village Forester may issue a permit to any person allowing such person to plant, move, remove, prune or otherwise maintain any public tree or shrub in accordance with this subsection.

(b) Application and Approval. Any person desiring to plant, move, remove, prune or otherwise maintain any public tree or shrub shall apply in writing to the Village Forester for a permit to do such work. Such application shall specify the location and description of the proposed work. Such permit may be issued if the Village Forester determines that the proposed work is necessary and in accord with the purposes of this subchapter, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character and aesthetic quality of the area in which the tree or shrub is located or proposed to be located, and the soil conditions and physiological needs of the tree or shrub, and that the work will be performed by a person capable of completing the work without unnecessary risk of injury or damage.

(c) Permit Form, Expiration, Compliance, and Inspection. Permits shall be issued by the Village Forester on the standard form for this purpose and shall include a description of the work to be done and shall specify the genus, species, variety, size, grade, and location of trees or shrubs to be planted, if any. Any work done under such permit shall be performed in strict compliance with the terms thereof and with the specifications and standards set forth in §16.24. The Village Forester shall inspect all work performed pursuant to this section. Permits issued under this section shall specify an expiration date not to exceed six (6) months after the date of issuance.

(d) Permit Exemptions. No permit shall be required to water or fertilize any public tree or shrub or to take the necessary action to guard the public safety or clear the public way in the event of a storm, accident or other emergency.

## **16.27 TREE PROTECTION DURING CONSTRUCTION.**

(1) REVIEW OF PERMIT APPLICATIONS. The Village Forester shall review all applications for approval of construction in public rights-of-way and other public areas under §7.02, and shall make recommendations to the Building Inspector as to conditions or requirements necessary to adequately protect public trees and trees on property adjacent



to such public areas from damage due to the construction work. Such recommendation shall include compliance with all applicable standards contained in §16.24 unless the Forester shall determine that compliance therewith is unnecessary or impracticable under the circumstances.

(2) **VILLAGE CONTRACTS.** All Village contracts for public construction shall include or incorporate by reference the standards contained in §16.24 to the extent applicable to the construction project, provided, however, that the Village Forester may waive any standards the Forester determines to be unnecessary or impracticable under the circumstances. The decision of the Forester under this subsection shall be reviewable by the Village Administrator.

#### **16.28 PRIVATE TREE MAINTENANCE.**

(1) **OAK PRUNING REGULATED.** No person shall prune, cut or otherwise injure any oak tree on public or private property between April 1 and October 1 in any year, provided, however, that the Tree Advisory Board may authorize the issuance of permits to allow such pruning as may be necessary to protect the public safety and shall specify any conditions thereon deemed necessary to prevent the spread of Oak Wilt Disease.

(2) **PRIVATE TREES.** Property owners having trees or shrubs growing on their property outside of public right-of-way shall maintain such trees and shrubs such that they do not obstruct street lights, traffic signs or signals, street name signs or the free use of public ways and do not interfere with overhead or underground utility facilities.

#### **16.29 PENALTY.**

(1) **GENERAL.** Any person who shall violate any provision of this subchapter shall, in addition to any other remedy provided by this Code, be subject to a civil forfeiture of:

(a) not less than \$50.00 nor more than \$500.00 for a first violation;

(b) not less than \$100.00 nor more than \$500.00 for second and subsequent violations.

(2) **CONTINUING VIOLATIONS.** Each day a violation continues shall constitute a separate offense. Except as provided in sub. (3), each violation shall be considered a first violation unless 24 hours has elapsed following notice by the Village of the violation. Notice includes, but is not limited to:

(a) Oral or written notification or warning provided to the violator;

(b) The posting of a written notice on the premises where the violation has occurred;

(c) Service of a citation, summons or other document commencing any enforcement action; or

(d) Any other method of communication which provides actual notice of the violation to the violator.

(3) **RECURRING VIOLATIONS.** Notwithstanding the provisions of sub. (2), a violation shall constitute a second or subsequent violation if committed by a person who, within the previous 3 years, has been adjudicated guilty of a violation of this subchapter by any court of competent jurisdiction.

(4) **PRIVATE REMEDIES PRESERVED.** Nothing in this subchapter shall be construed in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have as a result of any nuisance.

**16.30 APPEALS.** Any person aggrieved by the administration or interpretation of any of the terms or provisions of this subchapter by any Village officer may, within ten (10) days after notice of the action appealed from, appeal to the Tree Advisory Board which may reverse, affirm or modify, in whole or part, the order, requirement, decision or determination of such officer. Any person aggrieved by a decision of the Tree Advisory Board may appeal that decision to the Village Board. Any appeal to the Village Board shall be filed in writing not later than 30 days after the date of the decision appealed or be barred.