

CHAPTER 4
TREES, WEEDS, AND OTHER VEGETATION

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§6-4-1: SHORT TITLE:

This Chapter shall be known and may be cited as the *TOWER LAKES TREE ORDINANCE* of the Village of Tower Lakes, Lake County, Illinois. (Ord. 93-350, 2-15-1993)

§6-4-2: PURPOSE AND INTENT:

(A) Purpose:

It is the purpose of this Chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Village of Tower Lakes, Lake County, Illinois (“the Village”).

(B) Intent:

It is the intent of the Board of Trustees of the Village that the terms of this Chapter shall be constructed so as to promote:

1. The planting, maintenance, restoration, and survival of desirable trees, shrubs and other plants within the Village; and

2. The protection of community residents from personal injury and property damage, and the protection of the Village from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community. (Ord. 93-350, 2-15-1993)

§6-4-3: DEFINITIONS:

As used within this Chapter, the following terms shall have the meanings set forth in this Section:

ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE FOR THE VILLAGE OF TOWER LAKES (hereinafter, “Arboricultural Specifications Manual”): A manual prepared by the Arborist pursuant to this Chapter containing regulations and standards for the planting, maintenance and removal of trees, shrubs, and other plants upon Village-owned property.

ARBORIST: The Village Arborist of the Village of Tower Lakes (“the Arborist”).

PROPERTY OWNER: The record owner or contract purchaser of any parcel of land.

TREES, SHRUBS, AND OTHER PLANTS: All vegetation, woody or otherwise, except lawn grasses, and except flowers less than twenty four inches (24”) in height.

VILLAGE-OWNED PROPERTY: Property within the Village limits of the Village of Tower Lakes, Illinois, and:

- (A) Owned by the Village in fee simple absolute, or
- (B) Impliedly or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements.

(Ord. 93-350, 2-15-1993)

§6-4-4: THE TOWER LAKES TREE COMMISSION; ESTABLISHMENT, COMPOSITION, APPOINTMENT OF MEMBERS, DUTIES:

(A) Establishment:

The Tower Lakes Tree Commission (hereinafter “Tree Commission”) is hereby established. Its functions and duties are limited to those set forth in this Chapter.

(B) Composition:

The Tree Commission shall be composed of five (5) commissioners, who shall be appointed by the Village President with the approval of the Board of Trustees. These five (5) commissioners shall serve without pay and shall reside within the Village. Subject to the exceptions in subsection (C) of this Section, each commissioner of the Tree Commission shall serve for a term of three (3) years.

(C) Appointment of Members:

One of the five (5) commissioners initially appointed to the Tree Commission shall serve for a term of one year; two (2) of the five (5) commissioners initially appointed shall serve for a term of two

(2) years; and two (2) of five (5) commissioners initially appointed shall serve for a term of three (3) years. All terms shall start on a common date. Determination of the length of terms of the five (5) commissioners initially appointed shall be by lot. The Village President shall designate the chairperson of the Tree Commission.

(D) Expiration or Vacation of Terms:

Within thirty (30) days following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Village President with the approval of the Board of Trustees, and the successor shall serve for a term of three (3) years. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Village President and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Village President with the approval of a majority of Board of Trustees.

(E) Duties:

The Tree Commission shall perform the following duties:

1. Within a reasonable time after the appointment of the Tree Commission, upon call of the chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Chapter.
2. The Tree Commission shall advise and consult the Tower Lakes Arborist on any matter pertaining to the Tower Lakes Tree Ordinance 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:
 - (a) Amendments to the Tower Lakes Tree Ordinance, and alterations or revisions to the Arboricultural Specifications Manual, and alterations or revisions of the Urban Forestry Plan;
 - (b) Policies concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the Village;
 - (c) Allocation of funds to the Village or its operational committees and expenditures of funds by the Village within the framework of the Comprehensive Tree Care Plan;
 - (d) Establishment of educational and informational programs;
 - (e) Development of policies and procedures regarding the Arborist's duties;
 - (f) Issuance of permits required by this Chapter;
3. The Tree Commission, upon the request of any person who disagrees with the decision of the Arborist, shall hear all issues of the disputes which arise between the Village Arborist and any such person whenever those issues involve matters or the interpretation or enforcement of the Arboricultural Specifications Manual, the Urban Forestry Plan, or of the interpretation or enforcement of this Chapter, including disputes regarding the issuance of permits, or the concurrence or nonconcurrence of the Arborist in permits required under other ordinance or laws, or the abatement of nuisances. The decision of a majority of the appointed members of the Tree Commission with regard to such dispute shall be binding upon the Arborist. Nothing in this Section shall be construed to limit the jurisdiction of any court of law with respect to such disputes. (Ord. 93-350, 2-15-1993)

§6-4-5: VILLAGE ARBORIST; ESTABLISHMENT, DUTIES:

(A) Establishment:

The position of the Village Arborist is hereby established.

(B) Duties:

The Village Arborist (“the Arborist”) shall perform the following duties:

1. The Arborist, with the assistance of the Tree Commission, shall develop, and each subsequent year, update the Urban Forestry Plan. The Plan shall outline urban forestry program activities for a minimum of the next five (5) 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), 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. Activities may include, but are not limited to, street tree inventory, planting, tree removal, beautification projects, and educational projects.
2. The Arborist, with the assistance of the Tree Commission, shall develop and periodically review and revise, as necessary, the Arboricultural Specifications Manual. This manual shall contain regulations and standards for the planting, maintenance, and removal of trees, shrubs and other plants upon Village-owned property.
3. The Arborist shall cause the Urban Forestry Plan and the Arboricultural Specifications Manual, and all revisions and amendments to it, to be published and promulgated and shall cause three (3) copies of the manual, and all revisions and amendments to it, to be available for public inspection at the office of the Village Clerk. Notice that such information is available for public inspection and shall be published in a newspaper of general circulation within the Village at least one weekday of each of four (4) consecutive weeks immediately following the initial availability of the Arboricultural Specifications Manual, or revisions or amendments thereto. The Arboricultural Specifications Manual, and any revisions and additions thereto shall become effective on the tenth day following the final publication in a newspaper of general circulation required under this subsection.
4. The Arborist shall make available to any interested person copies of the Tree Ordinance, information about the activities of the Tree Commission, copies of the Arboricultural Specifications Manual and copies of the Urban Forestry Plan.
5. The Arborist shall administer the Urban Forestry Plan, the Tree Ordinance and the provisions of the Arboricultural Specifications Manual.
6. The Arborist shall perform whatever acts are necessary, including the planting and maintenance of trees, the removal of undesirable trees, shrubs, and other plants located on Village-owned property, to ensure that all trees, shrubs, and other plants located on Village-owned property conform with the Urban Forestry Plan, the Arboricultural Specifications Manual, and this Chapter.
7. The Arborist shall issue such permits as are required by this Chapter and shall obtain as a condition precedent to the issuance of such permits the written agreement of each person who applies for such permits that he or she will comply with the requirements of this Chapter, the

Urban Forestry Plan, and with the regulations and standards of the Arboricultural Specifications Manual. The Arborist shall have the right to inspect all work performed pursuant to such permits. If the Arborist finds that the work performed is not in compliance with the requirements of this Chapter, the Urban Forestry Plan, or with the regulations or standards of the Arboricultural Specifications Manual, the Arborist shall provide written notice of his/her finding to the permit applicant. The notice shall include a copy of this Chapter, and:

- (a) The permit shall be nullified and shall be void, and
 - (b) The Arborist may issue a written order that the permit applicant cease and desist all work for which the permit was required, and
 - (c) The permit applicant shall be subject to penalty under the terms of this Chapter, and
 - (d) The Arborist may take steps to correct the results of the noncomplying work and the reasonable costs of such steps shall be charged to the permit applicant.
8. The Arborist shall establish a program of public information and education that will encourage the planting, maintenance, or removal of trees, shrubs, and other plants on private property in furtherance of the goals of the Urban Forestry Plan. (Ord. 93-350, 2-15-1993)

§6-4-6: PERMITS:

(A) Scope Of Requirement:

No person except the Arborist, an agent of the Arborist, or a contractor hired by the Arborist may perform any of the following acts without first obtaining from the Arborist a permit for which no fee shall be charged, 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. Plant on Village-owned property, or treat, prune, remove, or otherwise disturb any tree, shrub, or other plant located on Village-owned property, except that this provision shall not be construed to prohibit owners of property adjacent to Village-owned property from watering or fertilizing without a permit any tree, shrub, or other plant located on such Village-owned property;
2. Trim, prune, or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on Village-owned property and thereby to cause damage to persons or property;
3. Place on Village-owned property, either above or below ground level, a container for trees, shrubs, or other plants;
4. Damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on Village-owned property;
5. Attach any rope, wire, nail, sign, poster, or any other manmade object to any tree, shrub, or other plant located on Village-owned property;
6. Dig a tunnel or trench on Village-owned property.

(B) Issuance:

Upon receipt of a complete application, the Arborist shall issue a permit to perform within thirty (30) days of the day of issuance any of the acts specified in subsection (A) of this Section, for which a permit is requested whenever:

1. Such acts would result in the abatement of a public nuisance or to otherwise comply with the provisions of this Code;
2. An application has been signed by the applicant and submitted to the Arborist 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 Arborist may find reasonably necessary;
3. The applicant has agreed in writing to perform the work for which the permit is sought in accordance with the provisions of this Chapter; and
4. The applicant certifies that he or she has read and understands those provisions of this Chapter which are pertinent to the work for which the permit is sought; and
5. If the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon Village-owned property, and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the Village harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the Village administrator a liability insurance policy in the amount of not less than one hundred thousand dollars (\$100,000.00) per person/three hundred thousand dollars (\$300,000.00) per accident for bodily injury liability and fifty thousand dollars (\$50,000.00) aggregate for property damage liability, and an umbrella policy with a limit of not less than two million dollars (\$2,000,000.00), which policy shall name the Village, its officers, agents and employees, as additional insureds.

(Ord. 93-350, 2-15-1993; amd. 2014 Code)

§6-4-7: PUBLIC NUISANCES:

(A) Definition:

The following are hereby declared public nuisances under this Chapter:

1. Any dead or dying tree, shrub, or other plant, whether located on Village-owned property or on private property;
2. Any otherwise healthy tree, shrub, or other plant, whether located on Village-owned property 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 Village-owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public;

4. Any tree, shrub or other plant or portion thereof whether located on Village-owned property 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 Village-owned property or on private property which dangerously obstructs the view as such may be determined by the Village Engineer pursuant to this Chapter.

(B) Right to Inspect:

The officers, agents, servants and employees of the Village 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.

(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 Village-owned property shall be pruned, removed, or otherwise treated by the Arborist 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 privately 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 Arborist shall cause a written notice to be personally served or sent by regular U.S. mail, postage paid, 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 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.
 - (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.
 - (e) Such notice will require the elimination of the nuisance no more than thirty (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.
 - (f) In the event that the nuisance is not abated by the date specified in the notice, the Arborist is authorized to cause the abatement of said nuisance.

3. The Arborist is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Arborist to be an immediate threat to any person, or property.

(Ord. 93-350, 2-15-1993)

§6-4-8: INTERFERENCE WITH ARBORIST:

No person shall unreasonably hinder, prevent, delay, or interfere with the Arborist or his/her agents while engaged in the execution or enforcement of this Chapter. (Ord. 93-350, 2-15-1993)

§6-4-9: APPEAL:

Any party who elects any action or decision by the Village Arborist or Tree Commission shall be entitled to appeal to the Corporate Authorities of the Village for a final determination. (Ord. 93-350, 2-15-1993)

§6-4-10: PERMITS TO PLANT OR REMOVE TREES OR SHRUBS IN PUBLIC PLACES:

It shall be unlawful to plant, remove or cut down any tree or shrub within any public street or parkway or other public place without having first secured a permit as provided for in Section 6-4-6 of this Chapter. (Ord. 93-350, 2-15-1993)

§6-4-11: TREES ON PUBLIC PROPERTY:

No person shall prune, remove, or harm any tree on public rights of way or other property owned by the Village without permission from the Village Arborist or Tree Commission board member. (Ord. 01-484, 8-20-2001)

§6-4-12: ADVERTISEMENTS, NOTICES ON TREES OR SHRUBS:

It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway or other public place. (Ord. 93-350, 2-15-1993)

§6-4-13: PLANTS OVERHANGING PUBLIC PLACES; ROOTS IMPEDING DRAINAGE:

- (A) Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises so that the obstruction shall be removed. Roots of any tree or shrub which impede drainage shall be removed by the owner of the abutting premises pursuant to a permit as provided in Section 6-4-6 of this Chapter.
- (B) Any limb of a tree which has become likely to or does fall on or across any public way or place shall be removed by the owner of the abutting premises pursuant to a permit as provided in Section 6-4-6 of this Chapter.

- (C) If the owner of the abutting premises fails to fulfill said responsibilities as specified above, the Village may fulfill said responsibilities, but shall not be required to do so, and such owner shall be liable for the costs thereof pursuant to a permit as provided in Section 6-4-6 of this Chapter. (Ord. 93-350, 2-15-1993)

§6-4-14: POLES, WIRES TO BE KEPT AWAY FROM TREES AND SHRUBS:

Any person given the right to maintain poles and wires in the streets, alleys or other public places in the Village shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed and subject to the supervision of the Village President, or his or her designate, so that no injury shall be done to the poles or wires or shrubs and trees by contact. (Ord. 93-350, 2-15-1993)

§6-4-15: REMOVAL OF CERTAIN TREES REQUIRED:

§6-4-15-1: Right to Inspect:

The officers, employees, and agents of the Village are hereby authorized and directed to enter on and upon private property whereon there is located any elm trees having the appearance of or suspected of being diseased with *Ceratocystis ulmi*, commonly called Dutch Elm Disease, or ash trees infested with the Emerald Ash Borer (*Agrilus planipennis fairmaire*), for the purpose of inspecting said suspected tree and removing therefrom samples or portions thereof to be tested to establish whether said tree is, in fact, diseased or infested.

§6-4-15-2: Nuisance Declared:

In the event that it is determined that the tree from which samples have been taken is, in fact, diseased or infected with Dutch Elm Disease or infested with the Emerald Ash Borer, said tree shall forthwith be and it is hereby declared to be a nuisance.

§6-4-15-3: Duty of Owner/Occupant to Abate:

The owner, occupant, or agent of the parcel of land on which a diseased elm tree or tree infested with the Emerald Ash Borer exists shall forthwith remove and destroy said tree and shall chip the same or shall cause the same to be removed, destroyed, and ground, milled, chipped, or otherwise disposed of consistent with the provisions of the applicable state or federal quarantine within ten (10) days of notification to such owner, occupant, or agent that said elm tree or ash tree is, in fact, diseased, infected, and/or infested. No chips or other particles resulting from such removal operation shall exceed one inch (1") in any dimension, unless allowed pursuant to the provisions of any applicable state or federal quarantine. All stumps of such diseased, infected, and/or infested trees shall be removed to a depth of not less than eight inches (8") below the ground surface and then covered with soil of the same depth. No ash material shall be removed from any quarantine zone as imposed from time to time by any State or federal agency, unless such removal is done consistent with the provisions of the state or federal quarantine. Notwithstanding any other provisions in this Chapter to the contrary, all removal operations for such diseased and/or infested tree(s) shall fully comply with all applicable State and federal statutes and/or regulations as exist from time to time.

§6-4-15-4: Notice to Abate Nuisance:

Whenever the owner or occupant of any private property containing a diseased elm tree or infested ash tree permits the diseased or infested tree to remain on such premises, the Village shall proceed as follows:

- A. A notice shall be sent by certified mail or personally served on the person to whom was sent the tax bill for the general taxes for the last preceding year on the premises.
- B. Such notice shall state that there is an elm tree infected with Dutch Elm Disease or an ash tree infested with the Emerald Ash Borer on the premises, the notice shall describe the premises by legal description or by street address, and the notice shall state that unless the diseased elm tree or infested ash tree is removed on or before the date stated in the notice, the diseased or infested tree shall be removed at the property owner's expense. The date stated in the notice shall be not less than ten (10) days after the date of delivery or mailing of the notice.
- C. There shall be included with such notice a copy of this Section and a copy of 65 Illinois Compiled Statutes 5/11-20-12 and 65 Illinois Compiled Statutes 5/11-20-15.

§6-4-15-5: Abatement by Village; Costs Constitute a Lien:

In all cases where the owner, occupant, or their agent of the parcel of land on which said diseased elm tree or infested ash tree is located cannot be found, or if found and notified as aforesaid, neglects or refuses to abate said nuisance, it shall be lawful for the village to abate the same by the removal, destruction, and chipping of said diseased elm tree or infested ash tree and in that event the said owner, occupant and agent or any of them shall be charged with those expenses which may be incurred by the village in the removal or abatement of the diseased elm tree or infested ash tree as aforesaid, which expenses may be collected by the village by suit or otherwise in addition to the fine(s) or penalties provided. Such expenses shall also be a lien upon the real estate affected in accordance with 65 Illinois Compiled Statutes 5/11-20-12 and 5/11-20-15, provided, however, such cost(s) shall not be a lien on the underlying parcel unless a notice is personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities. Such notice must also be delivered or sent after the removal activities have been performed and said notice must: a) include a copy of this section and include copies of 65 Illinois Compiled Statutes 5/11-20-12 and 5/11-20-15, which statute is applicable to all such liens; b) identify the underlying parcel, by common description; and c) describe the removal activity.

§6-4-15-6: Failure to Remove Tree Prohibited:

It shall be unlawful for the owner, or occupant, or their agent of any premises in the village to permit any tree or portion thereof infected with Dutch elm disease or infested with the emerald ash borer to remain on such premises or to fail to remove same from such premises.

(Amd. 2014 Code)

§6-4-16: WEEDS AND OTHER NUISANCE VEGETATION; VILLAGE LIEN:

- A. Any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind, found growing in any lot or tract of land in the Village are hereby declared to be a nuisance, and it

shall be unlawful to permit any such weeds to grow or remain in such place. In addition, it shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding two feet (2') anywhere in the Village on numbered, platted lots, or to permit or allow any vegetation to be dead, diseased, overgrown, or a potential threat to the public health and/or safety, or to otherwise constitute a public nuisance, and any such weeds or vegetation are hereby declared to be a nuisance.

- B. Wherever weeds or other nuisance vegetation exist in violation of this Chapter, the Village will serve on the owner, or on the person who paid the last previous real estate bill, written notice of the substance of this Chapter and the substance of the related sections of the Illinois Municipal Code, and if the said weeds or other nuisance vegetation are not removed or cut within ten (10) days thereafter, the Village may take steps to cut or remove said weeds or other nuisance vegetation and file a lien in the manner provided by the Illinois Municipal Code, as amended from time to time.

(Ord. 69-38, 8-18-1969; amd. 2014 Code)