

## CHAPTER 2

**TREES AND SHRUBS**

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5-2-1: **TITLE:** This Chapter shall be known and may be cited as the *VILLAGE OF ELIZABETH TREE ORDINANCE*. (Ord. 2000-4, 11-14-2000)

5-2-2: **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.
- B. Intent: It is the intent of the Village Board of Trustees that the terms of this Chapter shall be construed 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. 2000-4, 11-4-2000)

5-2-3: **DEFINITIONS:** As used within this Chapter, the following terms shall have the meaning set forth in this Section:

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 grass and flowers less than twelve (12) inches in height.
VILLAGE OWNED PROPERTY:	Property within the Village limits of the Village of Elizabeth, Illinois and: <ul style="list-style-type: none"> <li>A. Owned by the Village in fee simple absolute or;</li> <li>B. Implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements. (Ord. 2000-4, 11-14-2000)</li> </ul>

5-2-4: **THE VILLAGE OF ELIZABETH TREE COMMITTEE; ESTABLISHMENT, COMPOSITION, APPOINTMENT OF MEMBERS, DUTIES.**

- A. Committee Established: The Village of Elizabeth Tree Committee (hereinafter "Tree Committee") is hereby established. Its functions and duties are limited to those set forth in the Chapter.
- B. Composition. The Tree Committee shall be composed of four (4) committee persons who shall be appointed by the Village President with the approval of the Board of Trustees. Two (2) committee persons shall be members of the Village Board. The remaining two (2) committee persons shall be ex-officio and shall not vote and they shall be selected from the community at large.(amd. 11-14-2000)
- C. Duties. The Tree Committee shall perform the following duties.
  - 1. Within a reasonable time after the appointment of the Tree Committee, upon call of the Chairperson of the Tree Committee, the Tree Committee 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 Committee, upon the request of any person who disagrees with the decision of the Tree Committee, shall hear all issues of disputes that arise. The decision of the majority of the appointed shall be binding upon the Board. (amd. 11-14-2000)

5-5-5: **PERMITS.**

- A. Permit Required; Scope: No person except the agent, arborist, public utility company or a contractor hired by the agent may perform any of the following acts without first obtaining from the agent 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 trees or shrubs 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 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 other plant located on Village owned property.<sup>1</sup>
  6. Dig a tunnel or trench on Village owned property.
- B. Issuance of Permit; Conditions: Within seven (7) days of receipt of the application, the agent 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

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<sup>1</sup> See also subsection 8-1-10H of this Code

2. Such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;
3. An application has been signed by the applicant and submitted to the agent 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 agent may find reasonably necessary.
4. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Chapter, the Urban Forestry Plan and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
5. The applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Ordinance and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought; and
6. If the work for which a permit is issued entails the felling of any trees or part thereof, located on private property, which, as a result of such felling, reasonably may be expected to fall upon Village owned 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 Clerk a liability insurance policy in the amount of 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, which policy shall name the Village of Elizabeth as an additional insured. (Ord.2000-4, 11-14-2000)

#### 5-2-6 **PUBLIC UTILITY COMPANIES**

- A. Notice to Village of Pruning Cycles: Public utility companies shall notify the Village agent or arborist prior to the initiation of pruning cycles which will involve trees located on Village owned property for the purpose of maintaining safe line clearance. The notice shall state the estimated time frame of the pruning cycle as well as the planned locations in the Village where the work will be performed. All pruning work shall be carried out in accordance with accepted arboricultural standards.

- B. Notice to Village of Underground Activity: Public utility companies shall also notify the Village agent or arborist prior to the installation or maintenance of underground utilities if such activity will occur within the drip line of trees located on Village owned property.
- C. Authority during Emergencies: In the case of severe storms, natural disasters or other emergency situations, a public utility company may perform any required pruning or underground utility maintenance necessitated by such situation and thereafter notify the Village agent of the work performed. (Ord. 2000-4, 11-14-2000)

5-2-7:           **PUBLIC NUISANCES:**

- A. Definitions: The following are hereby declared public nuisances under this Ordinance:
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 or 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. (Ord. 2000-4, 11-14-2000)
  5. Any tree, shrub, weed or other plant or portion thereof whether located on Village owned property or on private property which dangerously obstructs the view of such may be determined by the Tree Committee pursuant to the Ordinance. (Ord. 2000-4, 11-14-2000; amd. 2002 Code)
- 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, plat or plant part that is suspected to be public nuisance.

C. Abatement. The following are the prescribed means of abating public nuisance under this Chapter:

1. **Timely Abatement:** 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 within a reasonable time after its discovery.
2. **Notice Requirements:** 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 Committee or Agent 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 taxed for the last preceding year.
  - b. Such notice shall describe the kind of tree, shrub or other 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.
  - e. Such notice will require the elimination for the nuisance no less 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.
3. **Summary Abatement:** The Committee is empowered to cause the immediate abatement of any public nuisance; provided, that the nuisance is determined by the arborist or agent to be immediate threat to any person or property. (Ord. 2000-4, 11-14-2000)

5-2-8: **INTERFERENCE WITH ENFORCEMENT OFFICIALS:** No person shall unreasonably hinder, prevent, delay or interfere with the agents while engaged in the execution or enforcement of this Chapter. (Ord. 2000-4, 11-14-2000)

**5-2-9: PENALTIES:**

- A. **Fine:** Any person who violates any provision of this Chapter or who fails to comply with any notice issued pursuant to the provisions hereof, upon being found guilty of violation, shall be subject to penalty as provided in Section 1-4-1 of this Code for each separate offense. Each day during which any violation of the provisions of this Chapter shall occur or continue shall be a separate offense.
- B. **Cost of Repair or Replacement:** If, as the result of the violation of a provision of this Chapter, the injury, mutilation or death of a tree, shrub or other plant located on Village owned property is caused, the cost of repair or replacement of such tree, shrub other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens" as published by the International Society of Arboriculture. (Ord. 2000-4, 11-14-2000)

5-2-10: **APPEAL.** Any party who elects to dispute any action or decision by the Village arborist, agent, or Tree Commission shall be entitled to appeal to the Village Board of Trustees for a final determination.  
(Ord. 2000-4; 11-14-2000)

5-2-11: **SEVERABILITY.** If any provision of this Ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or application of the Ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.  
(amd. 11-14-2000)