

CHAPTER 10

VILLAGE VEGETATION CODES

ARTICLE I: GENERAL

Sec. 10-0. GENERAL - APPLICABILITY.

The provisions of this Chapter shall apply to all persons residing in or visiting the Village of Orangeville who have any stated, implied or incurred jurisdiction, liability or responsibility regarding the implementation, enforcement, and compliance with any and all of the articles of this Chapter.

Sec. 10-1. GENERAL - PURPOSE.

A. The purpose of this Chapter is to establish reasonable, comprehensive, and functional vegetation Codes for the Village regarding landowners and trees.

B. It is intended that these Codes shall help protect and preserve the character of the Village with a consideration toward conserving the community's rights and responsibilities, public health, safety, and welfare, while providing the best possible wholesome community environment.

Sec. 10-2. GENERAL - TERMS and DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply to the terminologies indicated whenever they are used in this Chapter, unless the context clearly indicates or requires a different meaning:

LANDOWNER. The term "Landowner," when used herein, shall mean one who owns or controls land within the Village, and the Village itself as caretaker of all municipal properties such as parks, recreation areas, municipal-building sites, and right-of-ways.

PARK TREES. The term "Park Trees," when used herein, shall mean trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village, or to which the public has free access as a park.

PRESERVATION OR RESTORATION AREA. The term "Preservation or Restoration Area," when used herein, shall mean a biologically-diverse area managed to preserve or restore native Illinois grasses and forbs, native trees, shrubs, wild flowers and aquatic plants; and old-field succession of native and non-native plants; or a combination of these.

STABILITY. The term "Stability," when used in an ecological sense, shall mean a state of good health and vigor, as opposed to one of impairment and decline.

STREET TREES. The term "Street Trees," when used herein, shall mean trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.

TURF GRASS. The term "Turf Grass," when used herein, shall mean grass commonly used in regularly cut lawns or play areas, such as but not limited to, bluegrass, fescue, and rye-grass blends.

TOPPING. The term "Topping," when used herein, shall mean the severe cutting back of limbs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

WEEDS. The term "Weeds," shall mean the following plant species which are defined as "Noxious weeds": *Cannabis sativa, L.* (marijuana); *Ambrosia trifida L.* (giant ragweed); *Ambrosia artemisifolia, L.* (common ragweed); *Cirsium arvense* (Canada thistle); *Sonchus arvensis* (perennial member of the sorghum genus including *Sorghum halepense* (johnsongrass)), *Sorghum almum* and other johnsongrass X sorghum crosses with rhizomes.

Sec. 10-3. GENERAL - SEVERABILITY.

The articles, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase, clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional, invalid, or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Chapter.

Sec. 10-4 through 10-10. RESERVED.

ARTICLE II: VILLAGE.

Sec, 10-11. VILLAGE - RESPONSIBILITIES.

A. Any and all vegetation growing on Village right-of-way and property shall be the responsibility of the Village to maintain and control.

B. Articles III (Landowners) and IV (Trees) herein shall also be applicable to the Village, except for Section 10-23.

C. The Village Maintenance Superintendent shall be responsible for the application and enforcement of the content of said Articles and shall advise the Village President of any situation that interferes or hinders the Superintendent from carrying out his assigned duties.

Sec. 10-12. VILLAGE - TREE BOARD.

A. There is hereby created a Village Tree Board. Said Board shall consist of three (3) Village residents, who shall be appointed by the Village President with the approval of the Board.

B. The conditions of office for the Tree Board members shall be as defined in the Sections of Chapter 2, Article III of this Book of Codes, except Sections 2-38, 2-41, and 2-43, which shall not be applicable.

C. It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the Village Board and upon their acceptance and approval, shall constitute the Village Tree Plan. The Tree Board, when requested by the Village Board, shall further consider, investigate, make findings, report, and recommend upon any special matter of question coming within the scope its authority.

D. Upon convening their first meeting, the three-member Tree Board shall choose a chairperson, establish a meeting cycle, and keep record of its proceedings. All meetings shall be conducted in accordance with Article IV, Division 3. All Sections shall apply except for 2-93, 2-96, 2-98, and 2-101.

Sec. 10-13 through Sec. 10-17. RESERVED.

ARTICLE III: LANDOWNERS.

Sec. 10-18. LANDOWNERS - RIGHTS, RESPONSIBILITIES, PROHIBITIONS.

A. This Code shall apply equally to all landowners, including the Village of Orangeville, Illinois.

B. The Code recognizes the fundamental right of every landowner to develop and manage his/her landscape in the manner of his/her choosing, insofar as it does not present a hazard to the public health or safety, or the agricultural environment.

C. It shall be lawful to grow native plants, including but not limited to, ferns, grasses, forbs, aquatic plants, trees, and shrubs in a landscape in the Village when these plants were obtained not in violation of local, state or federal laws.

D. Every landowner shall be responsible for creating and sustaining a condition of stability of the landscape on every parcel of land which he/she shall own or control in the Village,

whether this be accomplished by traditional means (feeding, watering, cutting), or by the preservation or restoration and management of native plant communities.

E. Every landowner shall be responsible for the destruction of all noxious weeds on every parcel of land which he/she shall own or control in the Village. The term "destruction" means the complete killing of plants, or effectually preventing such plants from maturing to the bloom or flower stage.

F. 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 12 inches anywhere in the Village; any such plants or weeds exceeding such height are hereby declared to be a nuisance. Vegetable gardens on private property are excluded from this prohibition.

G. No person shall permit plants of any sort, whether they be traditional exotic or ornamental varieties, noxious or nuisance weeds, or forbs, grasses, or woody plants to be planted or grow on that person's property to grow into adjoining properties in the Village. Trees and shrubs already in existence on lot-lines at the time adoption of this Book of Codes are exempt from this Code through the time of their removal.

Sec. 10-19 through 10-24. RESERVED.

ARTICLE IV: TREES

Sec. 10-25. TREES - DANGEROUS.

A. With respect to trees or shrubs on private property, the following shall apply: **(1)** 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 shall be trimmed by the owner of the premises abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease; **(2)** any tree or limb of a tree which becomes likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands; and **(3)** the Superintendent of Streets may trim or have trimmed any such tree or shrub, or remove or have removed, any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with.

B. With respect to trees or shrubs on Village property, the following shall apply: **(1)** trees or shrubs located in the parkway (area between the street and the sidewalk) are the responsibility of the adjoining landowners to nourish and maintain. Those portions of parkway adjacent to Village property shall be the responsibility of the Village to nourish and maintain; and **(2)** trees presenting a hazardous situation can be removed upon being so ordered by the Village. Expenses for tree removal on private property shall be the owner's responsibility. If a tree presenting a hazardous situation threatens an adjoining property, said adjoining property owner may, with the approval of the owner of the tree, pay for the

needed removal. The adjoining property owner then may seek reimbursement of the removal expense for an approved removal upon presentation of proof of payment for the services to the Village.

Sec. 10-26. TREES - DUTCH ELM DISEASED DECLARED PUBLIC NUISANCE.

Trees of all species and varieties of ulmus (elm) and Zelkova infected with the fungus ceratostomella ulmi, as determined by laboratory analysis, are hereby declared to be a public nuisance, and shall be removed and burned within ten days following notification of the discovery of such infection. It shall be unlawful for any person, firm or corporation owning property whereon such a tree is situated, to possess or keep such a tree after the expiration of ten days following notification of the discovery of said infection.

Sec. 10-27. TREES - ELM BARK BEETLE BREEDING PLACES DECLARED PUBLIC NUISANCE.

Trees or parts thereof of ulmus (elm) or Zelkova in a dead or dying condition that may serve as a breeding place for the European Elm Bark Beetle, Scolytus Multistriatus, are hereby declared to be public nuisances, and it shall be unlawful for the person, firm or corporation owning the property whereon the same is situated to possess or keep the same.

Sec. 10-28. TREES - ENFORCEMENT.

The Village President is charged with enforcement of this Subchapter and to that end he or such person or forestry service as he may designate, may enter upon private property at all reasonable times for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person, firm or corporation to prevent the Village President or his representative from entering on private property for the purpose of carrying out his duties hereunder, or to interfere with the Village President or his representative in the lawful performance of his duties under the provisions of this Subchapter.

Sec. 10-29. TREES - REMOVAL OF PUBLIC NUISANCES.

The Village President or his representative shall give to the owner of the premises where the public nuisances are found, a written notice of the existence of such nuisance, and requiring the removal to be done under the direction and supervision of the Village President or his representative. Such notice shall also notify the owner of said property that unless such nuisance is removed in compliance with the terms thereof within such ten day period, the Village will proceed with the removal of such nuisance, and assess the cost thereof against the property owner.

Sec. 10-30. TREES - NOTICE OF REMOVAL TO OWNER.

Service of such notice shall be by personal service where the owner of said premises is a resident of the Village; where the owner is a non-resident of said Village, said notice shall be served by certified mail, return receipt requested, addressed to said owner at his last known address, and by publication at least once in a newspaper of general circulation in the Village.

Sec. 10-31. TREES - DUTIES OF OWNER.

It shall thereupon become the duty of the owner of said premises to cause such tree or breeding place to be removed and burned, under the direction and supervision of the Chairman of the Public Safety Committee or his representative. If the Village shall remove and burn any tree or breeding place, all expenses incurred in connection therewith shall be assessed against the property owner, and stump removal shall be the sole expense of the property owner.

Sec. 10-32. TREES - LIEN FOR EXPENSE OF REMOVAL.

In the event the charges for such removal are not paid fifteen (15) days after rendition of a bill therefor, then such charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquent charges shall constitute a lien upon the real estate upon which removal was performed. Property subject to a lien for such charges shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as in the case of statutory liens. Such foreclosure shall be by complaint in the name of the Village and shall be instituted upon authorization by the President and Board of Trustees of the Village, in any court having jurisdiction of such matters, against any property for which the charges for such removal remain unpaid for fifteen (15) days after a bill therefor has been rendered.

Sec. 10-33. TREES - REPLACEMENT OF.

A. The Village will replace trees taken down by the Village with the Village paying eighty percent (80%), as funds are available, and the property owners paying twenty percent (20%). Any trees so replaced must be approved by the Village and must conform to § 10-34.

B. Approved replacement trees shall be planted with respect to the following spacing, distance, and utility guidelines. **(1)** Spacing will be determined using the three (3) size classes listed in Section 10-34: small trees, thirty (30) feet; medium trees, forty (40) feet, and large trees, fifty (50) feet. **(2)** Distance from curb and sidewalks will also be determined using the three (3) size classes in Section 10-34: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet. Additionally, no tree shall be

planted closer than thirty-five (35) feet to any street corner, measured from the point of the nearest intersecting curbs or curblines, and no closer than ten (10) feet to any fire hydrant. **(3)** With respect to utilities, no trees other than those listed as small trees in Section 10-34 shall be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

Sec. 10-34. TREES - PLANTING OF TREES ON PUBLIC TERRACES PROHIBITED.

It shall be unlawful to plant any tree on any public terrace, or that portion of property between the roadway portion of public streets and the lot lines of property owners, other than the following:

Small Trees	Medium Trees	Large Trees
Apricot	Green Ash	Kentucky Coffee Tree
Flowering Crab Apple	Hackberry	Silver Maple
Golden Rain Tree	Thornless Honey Locust	Sugar Maple
Hawthorne	Basswood (Linden)	Burr Oak
Bradford Pear	Fruitless Mulberry	Sycamore
Redbud	English Oak	London Sycamore
Soapberry	Red Oak	Cottonless Cottonwood
Japanese Lilac	Japanese Pagoda Tree	
Flowering Peach	Pecan	
Purple Leaf Plum	River Birch	
Serviceberry	Thornless Osage Orange	
	Persimmon	
	White Poplar	
	Sassafras	

Sec. 10-35. TREES - MAINTENANCE.

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

B. The Village Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section 10-34 above.

C. It shall be unlawful as a normal practice for any person, firm, or Village department to top any Street Tree, Park Tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Code at the determination of the Village Board.

D. Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

E. The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village. The Village Tree Board shall notify in writing the owners of such trees. Removal shall be done by said owners at their expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

F. All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 10-36. TREES - ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in business or occupation of pruning, treating, or removing Street or Park Trees within the Village without first applying for and procuring a license. The license fee shall be twenty-five dollars (\$25.00) annually in advance; provided however, that no license shall be required of any public service company or Village employee doing such work in pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty-thousand dollars (\$50,000.00) for bodily injury and one-hundred-thousand dollars (\$100,000.00) property damage indemnifying the

Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Sec. 10-37. TREES - BARBERRY BUSHES.

It shall be a nuisance and unlawful to plant or permit the growth of the bush of the species of tall, common or European Barberry, further known as *Barberis Vulgaris* or its horticultural varieties within the Village.

Sec. 10-38 through sec. 10-98. RESERVED.

ARTICLE V: PENALTIES

Sec. 10-99. PENALTY - AS INDICATED BY ARTICLE.

A. All penalties addressed by this article are applicable only upon conviction of the referenced violation in the appropriate legal forum. Upon conviction, the Village shall also be entitled to reasonable fees and costs for its part in the adjudication.

B. Whenever in this Chapter or in any Section of this Chapter an act is prohibited or is made or declared to be unlawful or a misdemeanor or a violation of this Chapter, or whenever in such statute the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor or a violation therefor, the violation of any such provision of this Chapter or any statute herein shall be punishable by a fine of not less than ten-dollars (\$10.00), nor more than seven-hundred, fifty-dollars (\$750.00). Each day any violation of any provision of the Chapter or any statute of the Chapter continues, consecutive or not, shall constitute a separate offense. Regardless of the number of total days of violation, any fine shall not exceed three-thousand-dollars (\$3,000.00).

C. If, as a result of the violation of any provision of this Chapter, the injury, mutilation or death of a tree, shrub or other plant located on the Village-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall also be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with the latest version of a *Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens* as published by the International Society of Arboriculture.

D. The Village President or the Village Clerk shall serve notice upon any person or entity who is in violation of this Code stating the type of violation and that the Code must be complied with on a date certain not less than fourteen (14) days from the date the notice is signed and sent by the Village President or the Village Clerk. The notice shall be served by regular or certified mail. The proof of mailing only to the address listed upon the property tax roles shall be deemed sufficient service. Proof of actual service is not necessary.

E. In the event that a nuisance is not abated by the date specified in the notice sent to the private property owner, the Village President is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement, including reasonable attorney's fees incurred by the Village, shall be filed as a lien against the property on which the nuisance was located. The lien shall be in favor of the Village of Orangeville, Illinois. In addition, the owner of the property upon which the nuisance is located shall be subject to prosecution as stated in "B" above.