

CHAPTER 27

ENVIRONMENTAL ENHANCEMENT AND PROTECTION

- 27.01 [Tree Ordinance](#)
- 27.02 [Intent and Purpose](#)
- 27.03 [Definitions](#)
- 27.04 [Jurisdiction](#)
- 27.05 [Policies](#)
- 27.06 [Liabilities](#)
- 27.07 [Interference with Village Tree Board](#)
- 27.08 [Administrative Review Procedure](#)
- 27.09 [Penalty for Violation](#)
- 27.10 [Enforcement](#)
- 27.11 [Performance Evaluation](#)
- 27.12 [Severability](#)
- 27.13 [Creation and Establishment of a Village Tree Board](#)
- 27.14 [Planting of Street Trees](#)
- 27.15 [Removal of Protected Trees](#)
- 27.16 [Tree Topping](#)
- 27.17 [Pruning](#)
- 27.18 [Dead or Diseased Tree Removal on Private Property](#)
- 27.19 [Removal of Stumps](#)
- 27.20 [Arborist License and Bond](#)

CHAPTER 27 ENVIRONMENTAL ENHANCEMENT AND PROTECTION

27.01 TREE ORDINANCE. This Ordinance shall be known as the Village of Sussex Tree Ordinance.

27.02 INTENT AND PURPOSE. The intent of this section is, through the preservation, protection and planting of trees, to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water runoff and costs associated therewith and replenish groundwater supplies; aid in removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; provide protection against severe weather; aid in control; drainage and restoration of denuded soil subsequent to construction or grading; provide a haven for birds which in turn, assists in the control of insects; protect and increase property values; conserve and enhance the Village's physical and aesthetic environment; and generally protect, promote and enhance the quality of life, general welfare and public health and safety of the people of the Village

27.03 DEFINITIONS. For the purposes of this section, the following terms, phrases, words and their derivation shall have the meanings below. When not inconsistent with the context, words used in the present tense include the future and words in the singular include the plural number.

(a) DBH: is the diameter measured around the trunk of the tree at 4.5 feet above the grade. If a trunk splits than the measure is calculated just below the split.

(b) Development: is a lot, or more than one lot, that is to be divided improved with amenities such as building(s), structures, parking, abutting roadway(s), abutting sewer main(s), or abutting water main(s). Development may involve the division of land, as in the case of subdivision, assessor's plats, replats, or minor land division. Development does not necessarily involve the division of land, however, as in the case of condominiums, development of existing parcel(s) or combined parcels.

(c) Park trees: "Park trees" are herein defined as trees, shrubs, and all other woody vegetation in public parks, and all areas owned by the Village of Sussex to which the public has free access as a park.

(d) Person: Any public or private individual, group, company, firm, corporation, partnership, association, society or any other combination of human beings, whether legal or natural.

(e) Protected Trees: "Protected Trees" are herein defined as trees, shrubs, and all other woody vegetation on land within the Village's municipal boundary that have a DBH of 3 inches or greater and a height of 8 feet or greater.

(f) Public place: Property under the jurisdiction of the Department of Public Works in the Village including, but not limited to, the Village right-of-way.

(g) Removal: The actual removal or causing the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a tree.

(h) Street trees: "Street trees" are herein defined as 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.

(i) Village: The Village of Sussex.

(j)Village Forester: The actual individual, the Village Engineer or his agent assigned to enforce this section.

27.04 JURISDICTION. The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alley 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. The Village Tree Board may remove, cause or order to be removed, any tree or part there of which is 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 14 of this ordinance.

27.05 POLICIES. It shall be the policy of the Village to encourage new tree plantings on public and private property and to cultivate a flourishing urban forest. It shall also be the policy of the Village to protect mature trees whenever and wherever possible to sustain the benefits that such trees bring.

27.06 LIABILITY. Nothing contained in this ordinance shall be deemed to impose any liability upon the Village, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any street tree area on his/her property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, or public place within the Village.

27.07 INTERFERENCE WITH VILLAGE TREE BOARD. It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, of trees on private grounds, as authorized in this ordinance.

27.08 ADMINISTRATIVE REVIEW PROCEDURE. The Village Board shall have the right to review the conduct, acts and decisions of the Village Tree Board or Village official. Any person may appeal from any ruling or order of the Village Tree Board to the Village Board pursuant to Section 24 of the Municipal Code.

27.09 PENALTY FOR VIOLATION. Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Sec. 25.04 of this Municipal Code.

27.10 ENFORCEMENT. The Village Engineer is hereby charged with the responsibility for enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the Village Attorney is hereby authorized to institute the appropriate proceedings to that end.

27.11 PERFORMANCE EVALUATION. The Village Forester shall be responsible for providing records, status reports, and other information to the Tree Board about the effectiveness of the ordinance in accomplishing the stated goals.

27.12 SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

27.13 CREATION AND ESTABLISHMENT OF A VILLAGE TREE BOARD.

(a) There is hereby created and established a Village Tree Board for the Village of Sussex which shall consist of members, citizens and residents of this Village, who shall be appointed by the Village President with the approval of the council. The Park and Recreation Board will serve as the Village Tree Board.

(b) TERM OF OFFICE.

The term of office will be concurrent with the terms of the Park and Recreation Board.

(c) COMPENSATION.

Compensation for service on the Village Tree Board shall be established by the Village Board.

(d) DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the 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 a plan will be presented annually to the Village Board, and upon their acceptance and approval shall constitute the official comprehensive Village Tree Plan for the Village of Sussex, Wisconsin. The Tree Board, when requested by the Village Board, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(e) OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep minutes of its proceedings. A copy of the minutes shall be filed with the Village Clerk and be available within ten days of each meeting. A quorum shall be 4 members, but all action shall require the approval of the majority of the Board. All regular meetings shall be open to the public. The Board is to spend only within the budget limits set by the Village Board. All other Park and Recreation Board rules shall be followed pursuant to Section 1.06 of the Municipal Code.

27.14 PLANTING OF STREET TREES.

(a) Species to be planted - The size and genus, species and variety of trees and shrubs to be planted in public areas and as a part of a Village approved forestry plan shall be submitted to the Village Tree Board (Park and Recreation) for approval before commencement of such work.

(b) Space trees according to their mature size and shape (species sizes). Plant trees no closer than 35 feet to another public street tree.

(c) No street tree shall be planted less than 2 1/2 feet from curbs or curblines and sidewalks.

(d) No street tree shall be planted closer than 15 feet of any street corner of two local streets intersecting, and closer than 50 feet of any street corner of two arterial street intersections. (Village Zoning Ordinance Section 17.0600)

(e) No street tree shall be planted closer than 15 feet of any fire hydrant

(f) No street tree shall be planted closer than 20 feet to utility or street lighting pole, or under and within 10 lateral feet of any overhead utility wire.

(g) No street tree shall be planted over or within 8 lateral feet of any underground water line, sewer line, transmission or other utility.

(h) No street tree shall be planted within 15 feet from a driveway or alley.

(i) Any deviations from these regulations must be approved by the Park and Recreation Board.

27.15 REMOVAL OF PROTECTED TREES.

(a) Developments containing existing trees and/or wooded lots shall follow the Land Development Ordinance for preserving trees and wooded lots. If within three years prior to filing a preliminary plat, trees were removed from land within the preliminary plat without an approved protected tree preservation plan the area shall be restored/ mitigated for all trees on a ratio of 1" DBH loss replaced with 2" DBH of new tree(s). The developer shall also apply for and gain an approved tree preservation plan before proceeding with development. This section does not limit any other requirements found in the Tree Ordinance.

(b). No more than three protected trees shall be damaged, cut, or removed per lot without approval of the Village Tree Board. No approval is needed to remove trees on lots that are three quarters (3/4) of an acre or less in size. No approval is required for pruning, or for damaging, cutting, or removing dead, diseased or storm damaged trees as defined in this ordinance.

(c). The Village Tree Board when reviewing requests for protected tree removal shall require a Protected Tree Preservation Plan. The list shall include species, height, and DBH for each protected tree. The plan shall also include a site layout of existing protected trees and those scheduled for removal. The protected tree preservation plan shall outline the preservation of at least ninety percent of protected trees on site.

(d). Mitigation: The Village Tree Board may consider mitigation when reasonable efforts to meet the protected tree preservation standards have been exhausted. The offset shall be limited to preserve protected trees in similar numbers as found on average throughout the Village. The mitigation must be approved by the Village Tree Board. The mitigation will be on a one to one ratio with every 1" diameter loss replaced with 1" diameter of new tree(s). The type, size, and location of the replacement tree(s) shall be determined by Village staff and approved by the Village Tree Board based on factors including maintaining mature tree canopy, aesthetics of existing trees, species diversity, and habitat value loss.

27.16 TREE TOPPING. 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. Topping is defined as the severe cutting back limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 exempt from this ordinance at the determination of the Village Tree Board.

27.17 PRUNING. Every owner of any tree overhanging any street right-of-way within the Village, shall prune the branches so that such branches 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 10 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.

27.18 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. 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 constitutes a potential threat to other trees within the Village. The Village Tree Board designee will notify, in writing, the owners of such trees. Removal shall be done by said owners of their own expense within 60 days 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 owners' property tax notice.

27.19 REMOVAL OF STUMPS. 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.

27.20 ARBORIST LICENSE AND BOND. It shall be unlawful for any person or firm to engage in the business or occupation of pruning or removing street or park trees within the Village without first filing evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.