

Village of Lake Odessa Tree Ordinance

ARTICLE III. - TREES AND SHRUBS

State Law reference— Care of trees and shrubs along highways, MCL 247.241 et seq.; municipal forests, MCL 324.52701 et seq.

- **Sec. 10-71. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Large trees means those trees obtaining a height of 50 feet or more.

Medium trees means those trees obtaining a height of more than 25 feet but less than 50 feet.

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks, on public property, and on all areas owned by the village or to which the public has free access as a park.

Small trees means those trees obtaining a height of less than 25 feet.

Street trees means trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or rights-of-way within the village.

(Ord. No. 126, § 10-4.11(a), 2-10-1986; Code 1993, § 18-26)

Cross reference— Definitions generally, [§ 1-2](#).

- **Sec. 10-72. - Village tree board—Generally.**

(a)

Established; composition. There is hereby created and established a village tree board which shall consist of three members, one such member to be a member of the village council appointed by the village president with the approval of the village council; one such member to be an employee of the department of public works, appointed by the president with the approval of the council; and the third member to be the village manager. If no village manager shall be employed by the village, then the third member shall be a resident appointed by the president with the approval of the council.

(b)

Term of office. Members of the village tree board shall serve until their successor has been appointed.

(c)

Compensation. Members of the village tree board shall serve without compensation.

(d)

Operation. The village tree board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members of the village tree board shall be a quorum for the transaction of business.

(Ord. No. 126, § 10-4.11(b)—(d), (f), 2-10-1986; Code 1993, § 18-27)

- **Sec. 10-73. - Same—Duties and responsibilities.**

(a)

Administration of care plan. It shall be the responsibility of the village tree board to study, investigate, counsel, develop, update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and park trees. Such plan will be presented annually to the village council and, upon its acceptance and approval, shall constitute the official comprehensive tree plan of the village.

(b)

Action on special matters. The village tree board, when requested by the village council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

(Ord. No. 126, § 10-4.11(e), 2-10-1986; Code 1993, § 18-28)

• **Sec. 10-74. - Requirements for street trees.**

(a)

Species to be planted. The species set forth in this subsection shall constitute the official street tree species for the village. No species other than those included in this subsection may be planted as street trees without written permission of the village tree board.

(1)

Large trees (50 feet or more).

Superform maple (*Platanoides* "superform").

Sugar maple (*Saccharum* hard maple).

Marshall seedless green ash (*Pennsylvanica lanceolata*).

Shademaster honeylocust (*Gleditsia triacanthus inermis* "shademaster").

Skyline honeylocust (*Tricanthos inermis* "skyline").

(2)

Medium trees (25 feet to 50 feet).

Crimson king maple (*Platanoides* "crimson king").

Royal red maple (*Platanoides* "royal maple").

Imperial honeylocust (*Triacanthos inermis* "imperial").

(3)

Small trees (less than 25 feet).

Eastern redbud (*Cercis canadensis*).

Flowering dogwood (*Cornus*).

Allegheny serviceberry (*Amelanchier laevis*).

(b)

Spacing. The spacing of street trees will be in accordance with the three species size classes listed in subsection (a) of this section, and no trees may be planted closer together than the following: Small trees, 30 feet (9.1 m); medium trees, 40 feet (12.2 m); large trees, 50 feet (15.2 m), except as approved in writing by the village tree board.

(c)

Distance from curb and sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in subsection (a) of this section,

and no trees may be planted closer to any curb or sidewalk than the following: Small trees, two feet (0.61 m); medium trees, three feet (0.91 m); and large trees, four feet (1.22 m).

(d)

Distance from street corners and fireplugs. No street tree shall be planted closer than 35 feet (10.67 m) to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet (3.05 m) to any fireplug.

(e)

Obstructing utilities. No street trees other than those species listed as small trees in subsection (a) of this section may be planted under or within ten lateral feet (3.05 m) of any overhead utility wire, or over or within five lateral feet (1.52 m) of any underground water line, sewer line, transmission line or other utility.

(Ord. No. 126, § 10-4.11(g)—(k), 2-10-1986; Code 1993, § 18-29)

- **Sec. 10-75. - Planting trees on private property.**

(a)

Distance from street right-of-way. No person shall plant any tree on private property within the village unless the distance from the center of the trunk of such tree to the nearest street right-of-way line measures six feet or more.

(b)

Planting of small trees on private property. No person shall plant on private property within the village any tree enumerated in [section 10-74\(a\)](#) as small trees within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(c)

Planting of medium trees on private property. No person shall plant on private property within the village any tree enumerated in [section 10-74\(a\)](#) as medium trees within ten lateral feet of any underground water line, sewer line, transmission line or other utility.

(d)

Planting of large trees on private property. No person shall plant on private property within the village any tree enumerated in [section 10-74\(a\)](#) as large trees within 15 lateral feet of any underground water line, sewer line, transmission line or other utility.

(e)

Written approval for planting certain trees. No person shall plant on private property within the village any poplar, box elder, basswood, willow, silver maple, common catalpa, horse-chestnut, Chinese elm tree or "tree of heaven" without first obtaining the written approval of the village tree board.

(f)

Distance from utility lines. No person shall plant on private property within the village any tree not enumerated in [section 10-74\(a\)](#) and not prohibited in this section within 25 lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. No. 126, § 10-4.11(l), 2-10-1986; Code 1993, § 18-30)

- **Sec. 10-76. - Street tree and park tree care.**

The village shall have the right to plant, prune, maintain and remove street trees, park trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The village tree 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, cable lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section shall not prohibit the planting of street trees by adjacent property owners provided that the selection and location of such trees is in accordance with [section 10-74](#).

(Ord. No. 126, § 10-4.11(m), 2-10-1986; Code 1993, § 18-31)

- **Sec. 10-77. - Tree topping.**

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the village tree board. "Topping" is defined as the severe cutting back of 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 exempted from the provisions of this section by a determination of the village tree board.

(Ord. No. 126, § 10-4.11(n), 2-10-1986; Code 1993, § 18-32)

- **Sec. 10-78. - Pruning, corner clearance.**

(a)

Every owner of any tree overhanging any street right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection, and so that there shall be a clear space of eight feet (2.43 m) above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public.

(b)

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 the visibility of any traffic control device or sign.

(Ord. No. 126, § 10-4.11(o), 2-10-1986; Code 1993, § 18-33)

- **Sec. 10-79. - Dead or diseased tree removal on private property.**

(a)

Removal generally; notice. 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 or parts thereof constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the village. The village tree board shall send notice by first class mail to the owner of the private property, as appears from the assessment records, with a copy of such notice sent by first class mail to the occupant. Removal shall be done by such owners or occupants at their own expense within 60 days after the date of mailing of notice.

(b)

Removal by village. In the event of failure of owners or occupants to comply with this section, the village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. In addition, the village may elect to recover such amount through court action.

(Ord. No. 126, § 10-4.11(p), 2-10-1986; Code 1993, § 18-34)

- **Sec. 10-80. - Removal of stumps.**

All stumps of street trees 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.

(Ord. No. 126, § 10-4.11(q), 2-10-1986; Code 1993, § 18-35)

• **Sec. 10-81. - Recovery of value of lost street trees or park trees.**

(a)

Recovery of value for damaged trees. Whenever the village tree board shall determine that any street tree or park tree has been impaired, damaged or broken in a manner which will cause immediate or future removal of the tree and that such removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree and the board shall have knowledge of the person causing such damage, then the board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.

(b)

Recovery of value of destroyed trees. Whenever the village tree board shall determine that any street tree or park tree has been severed, destroyed or removed, and that such severing, destruction or removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the board shall have knowledge of the person causing such damage, then the board shall assess against the responsible person the value of the tree, as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.

(c)

Choice of replacement tree. This section shall not be construed in such a way that the value received by the village shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the village tree board, such replacement tree to be not less than three inches in diameter measured at the height of six inches above the ground. The village tree board shall not be restricted in its choice as to the replacement planting site.

(d)

Duty of police department. It shall be the duty of the village police department, having knowledge of any damage or destruction to street trees or park trees and having knowledge of the person causing such damage to immediately report this information to the village tree board.

(e)

Duty of tree board. It shall be the duty of the village tree board to notify the village council of any damage to street trees or park trees for which recovery could be sought under the provisions of this section.

(Ord. No. 126, § 10-4.11(s), 2-10-1986; Code 1993, § 18-36)

• **Sec. 10-82. - Arborist's license and bond.**

It shall be unlawful for any person to engage in the business or occupation of pruning, treating or removing street trees or park trees within the village without first applying for and procuring a permit. The permit fee shall be set annually by the village tree board and paid in advance; provided, however, that no permit shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence with the village clerk of possession of liability insurance in the minimum amounts as set by resolution of the village council from time to time, indemnifying the village or any person injured or damaged resulting from the pursuit of such endeavors as described in this section. After receipt of the required permit fee and acceptable insurance information, the permit shall be issued by the village clerk.

(Ord. No. 126, § 10-4.11(t), 2-10-1986; Code 1993, § 18-37)

- **Sec. 10-83. - Appeals to village council.**

Any person may appeal from any ruling or order of the village tree board to the village council, who shall hear the matter and affirm, reverse or amend the decision of the village tree board.

(Ord. No. 126, § 10-4.11(u), 2-10-1986; Code 1993, § 18-38)

- **Sec. 10-84. - 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 inventorying, planting, identifying, tagging, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this article, or to remove, deface, mutilate or destroy any tree tag or other identifying device attached to any street trees, park trees, or trees on private ground by the village tree board, or any of its agents.

(Ord. No. 126, § 10-4.11(r), 2-10-1986; Code 1993, § 18-39)

- **Sec. 10-85. - Penalty for violations of article.**

Any person violating any provision of this article shall be guilty of a misdemeanor, and upon conviction or a plea of guilty, shall be subject to a fine as provided in [section 1-17](#) of this Code. Any such fine shall be separate from the recovery of value provided in this article, and the maximum amount of the fine provided for in this section shall in no way limit the amount of the value which may be recovered under the provisions of this article.

(Ord. No. 126, § 10-4.11(v), 2-10-1986; Code 1993, § 18-40)

- **Secs. 10-86—10-110. - Reserved.**