

3, 7-01

VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
AN ORDINANCE CREATING SECTION 90.103 OF THE MUNICIPAL CODE OF THE
VILLAGE OF WESTON ENTITLED "PROTECTION OF TREES AND SHRUBS"

The Village Board of the Village of Weston, Marathon County Wisconsin, do ordain as follows:

SECTION 1: Section 90.103 of the Municipal Code of the Village of Weston entitled "Protection of Trees and Shrubs" is hereby created to provide as follows:

Sec. 90.103. Protection of Trees and Shrubs

(a) *Intent and Purpose.* It is the policy of the Village of Weston to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in the Village (See Sec. 94.136 & Sec. 94.137):

- (1) Eliminate and guard against dangerous conditions which may result in injury to persons using the streets, sidewalks, or other public areas of the Village;
- (2) Promote and enhance the beauty and general welfare of the Village;
- (3) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas;
- (4) Guard all trees and shrubs, both public and private, within the Village against the spread of disease, insects, or pests; and
- (5) To prevent damage to any public sewer or water main, street, sidewalk, or other public property.

(b) *Applicability.* This article shall apply to tree and shrubs growing or planted after the effective date of the ordinance from which this section is derived in or upon public areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, safety, or welfare of the public, public areas, or trees within either public or private areas.

(c) *Village Board.* The Village Board or Village Arborist is empowered to require landowners to remove, prune, or treat specified trees, shrubs, or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs, or plants on private lands within the Village (See Sec. 94.137).

(d) *Adoption of State Statutes.* Wis. Stats. §§ 27.09 and 86.03 are adopted and incorporated in this article by reference.

(e) *Definitions.* Whenever the following words or terms are used in this article, they shall be construed to have the following meanings:

- (1) *Boulevard areas* mean the land between the normal location of the street curbing and sidewalk.
- (2) *Curb* means an enclosing frame, border or edging along a street.
- (3) *Dbh (diameter at breast height)*; represents the diameter in inches of a trunk cross section measured at 4 ½ above ground level; a basis for estimating or identifying tree volume, value, management needs and costs, utilization options, etc.
- (4) *Evergreen tree* means any woody plant normally having one trunk and bearing foliage in the form of limbs with needles, which may extend from the ground level throughout its entire height.
- (5) *Flush cut* means pruning a branch even with the trunk. This type of pruning is not suggested as the wound will not callus properly. A proper finish cut shall begin at the branch bark ridge and finish just outside of the branch collar.
- (6) *Hazard/Risk Tree* means any tree or part thereof which the Village Arborist upon examination deems as being a safety concern that may endanger the public using Village property or may cause damage to Village property whether growing upon public or private premises; this shall be declared a public nuisance.
- (7) *Median strip* means the dividing area that is landscaped between opposing traffic lanes within a street.
- (8) *Public areas* include all public parks and right-of-ways owned, controlled or leased by the Village.
- (8) *Public nuisance* means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; is infected with a plant disease; is infested with injurious insects or pests; is injurious to public improvements; or endangers the life, health, safety or welfare of persons, plants, or property.
- (9) *Public trees and shrubs* means all trees and shrubs located or to be planted in or upon public areas.

- (10) *Shrub* means any woody vegetation or woody plant having multiple stems and bearing foliage from the ground up.
- (11) *Topping* also known as rounding over is the practice of indiscriminately cutting limbs, creating stubs regardless of branch juncture. This practice creates a momentarily reduced crown that will respond significantly with more and longer weakly attached limbs, which will create a safety concern, this practice is never acceptable.
- (12) *Tree* means any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level reaching a mature height of 12 feet or more.
- (13) *Village Arborist* means the person designated by the Village Board as authorized to carry out this article and assure that proper maintenance practices are completed to trees within the Village to create a safe and aesthetically pleasing community forest, this person shall be an International Society of Arboriculture Certified Arborist.
- (14) *Vision triangle or vision setback area* is a clear sight triangle formed by a distance of 30 feet from the intersecting street rights of way and a third line connecting that distance to allow for clear views by persons traveling in vehicles or bicycles on the street.

(f) *Designation of Village Arborist.*

- (1) The Village Board may designate a municipal employee to perform the duties of the Village Arborist under Wis. Stats. § 27.09 and may authorize such Arborist to perform the duties and exercise the powers imposed on the Village Board by this section.
- (2) Annually the Village Arborist shall perform a risk assessment of all Village street trees and park trees in manicured areas and provide such report and recommendations to the Village Board.

(g) *Abatement of nuisances.* The Village Arborist shall order, direct, supervise and control the abatement of public nuisances as defined in this section by treatment, pruning, removal, or by other means which is determined to be necessary to prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry such diseases, thus allowing for a structurally sound and safe community forest.

(1) Trees and shrubs on private premises.

- a. The Village Arborist, after giving advance notice to the owner or tenant, shall have the authority to enter upon and inspect all premises , at reasonable times (7am to 5 pm), within the Village to determine whether any public nuisance exists thereon. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Wis. Stats. § 66.0119.
- b. When the Village Arborist has determined with reasonable certainty that a public nuisance exists upon a private premises, they shall in writing notify the owner or tenant having charge of such premises. Within 2 weeks after the issuance of said notice, said person shall cause the treatment, pruning, or removal and destruction of said nuisance tree or shrub as directed in the written notice. In case the owner or tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice after receiving it, they can rebut to the Village Arborist within 2 weeks of receiving the written notice. The Village Arborist shall then cause the treatment, pruning, or removal if risk to life of the said nuisance tree or shrub. The expense shall be entered on the tax roll as a tax against the property which said tree or shrub is located pursuant to Section 27.09(4), (5), (6), and (7) of Wisconsin Statutes.

(h) *Interference with Arborist.* No person shall interfere with the Village Arborist and their authorized representative while they are engaged in carrying out any work or activities authorized by this article.

(i) *Treatment of trees.* Shall be in accordance with the following:

- (1) Whenever the Village Arborist determines that any tree or shrub or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors insects (elm bark beetles, gypsy moth caterpillars, emerald ash borer, etc.), the Village Arborist may cause all trees within the infected area to be treated as they see fit which, may mean injecting, spraying, severing interconnected roots, and or removing parts or whole trees along with other best practices to ensure that transfer of the insect or disease to other trees or plants does not occur.

(2) In order to facilitate the work and minimize the inconvenience to the public of any treatments conducted under this section, the Arborist shall give 2 weeks' notice to landowners and or adjacent landowners and shall also post the appropriate warning notices in the areas along the streets where trees are to be treated. The Village shall not allow any claim for damages to any vehicle caused by spraying operations.

(3) When trees on private property are to be treated, the Arborist shall notify the owner of such property and proceed in accordance with the requirements of subsection (i) (2) of this section.

(4) No resident may prune, plant or remove trees on Village property.

(j) *Assessment of costs of abatement.*

(1) The entire costs to the Village plus a 25% administrative fee for abating any public nuisance or spraying trees shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located on or the parcel or lot upon which such tree stands in accordance with Wis. Stats. § 66.0627. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the village.

(2) The cost of abating a public nuisance, when done at the direction and under the supervision of the Arborist, shall be assessed to the property to which such nuisance, tree or wood is located as follows:

- a. The Arborist shall keep a strict account of the costs of such work or treatment and invoice the lot or parcel. Failure to pay within 60 days of the date of the notice will result in the amount charged to be entered on the tax roll as a tax against the property.
- b. The Village declares that, in making assessments under this section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood part thereof.

(k) *Planting of trees and shrubs.*

(1) *Purpose.* The Village Board states its determination that the planting, care and protection of the trees within the Village are desirable for the purpose of beauty, shade, comfort, noise and pollution reduction, storm water control, abatement, and economic betterment and encourages all persons to assist in a program of tree planting, care and protection.

(2) *Tree planting program.* The Park and Recreation Committee shall recommend to the Village Board, with approval from the Village Arborist, a program for tree planting, care and protection for the public parks and street right of way. The Village Board shall also encourage the planting, care and protection of trees and shrubs on private premises within the Village.

a. General planting techniques.

1. *Ball and burlap trees.* When using this type of root stock the wire basket should be removed to prevent girdling in the future.
2. *Hole width.* Shall be a minimum of twice the tree's root ball width.
3. *Hole depth.* Trees shall be planted so the root collar is level with the soil line or slightly higher.

b. *Right-of-way landscaping.* Where a parcel abuts a dedicated public right-of-way, landscaping shall be provided in accordance with the following provisions:

1. Right-of-way trees.
 - i. *Quantity.* Trees shall be planted on a maximum 40 feet and a minimum 25 feet spacing such that the total number of trees equal or exceed the ratio of one for each 35 feet of street frontage.
 - ii. *Location.* Trees shall be planted in the right-of-way along all streets no closer than ten feet from driveways and 40 feet from the corner of an intersection, as measured from the right-of-way lines extended. In addition, no trees shall be planted within ten feet of a fire hydrant or other aboveground public utility.

(3) *Tree types.*

- a. Use of the following trees shall be prohibited in the public right-of-way:

All Ash varieties – European Mountain, Green, White, Black, etc.
Ailanthus (Tree of Heaven)
Box Elder
Catalpa
Cottonwood (however these are permitted along water edges)
European White Birch
Fruit-bearing Trees (excluding crabapples)
Lombardy Poplar
Mulberry
Russian Olive
Siberian Elm
Silver Maple
Walnut
Willow (however these are permitted along water edges)
Evergreen trees shall be prohibited in the public right-of-way.
Other weak-wooded, messy trees

- (4) *Unlawfully planted trees.* Trees, plants or shrubs planted within any right-of-way or vision triangle without the authorization and approval of the Village Arborist may be removed without reimbursement. The Village Arborist shall notify the owner in writing, listing the unlawfully planted trees, plants or shrubs; ordering their removal and establishing a reasonable time within which such removal shall be accomplished. If removal is not accomplished within the 2 weeks specified in writing, the Village may remove such trees, plants or shrubs and assess the costs plus administrative fee thereof to the owner.

(l) *Pruning.*

- (1) Trees and shrubs standing in or upon public area or upon any private premises adjacent to any public right-of-way or public area shall be kept pruned so that the lowest branches projecting over the public street or sidewalk provide a clearance of not less than 14 feet. The Village Arborist may waive this subsection for newly planted trees if it is determined that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety (See Sec. 50.100.).
- (2) The necessity of the pruning may be determined by the Village Arborist.
- (3) No cutting or pruning of oaks from April 1st through Oct. 1st is allowed, this is to prevent the initiation or spread of oak wilt prevention.

(m) *Removal of trees and stumps.*

- (1) *Hazardous, obstructive and infected trees.* Any tree or part thereof, whether alive or dead, which the Village Arborist shall find to be infected, hazardous or a nuisance as to endanger the general public or other trees, plants or shrubs growing within the Village or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, pruned or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The Village Arborist shall give written notice to such owner to remedy the situation which shall be served by certified letter. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 2 weeks, as determined by the Village Arborist on the basis of seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or prune such tree within the time limits, the Village Arborist shall cause the tree to be removed, treated or pruned and shall report the full costs thereof to the Treasurer, who shall there upon enter such costs as a special charge against the property, plus a 25% administrative fee.
- (2) *Tree and stump removal standards.* In cutting down trees located in public areas, the tree must be removed with the root stump round out to a depth suitable for future planting of trees or turf. All wood and debris must be removed from the street prior to the end of each working day, and all holes shall be filled to normal grade level with topsoil and seed within 2 weeks.

(n) *Prohibited acts.*

- (1) *Damage to public trees.* No person shall, without the consent of the Village, perform or cause to be performed by others any of the following acts:
 - a. Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - b. Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the tree or shrub.
 - c. Remove any guard, stake or other device for the protection of a public tree or shrub; close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - d. Attach any sign, poster, notice or other object on any tree or fasten any guy wire, cable, rope, nails, screws or other device to any tree.

- e. Cause or encourage any fire or burning near or around any tree.
- f. Place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.

(o) *Appeal from determinations or orders.* Any person who receives a determination or order under this article from the Village Arborist and who objects to all or any part thereof shall have the right to appeal such determination or order, subject to article XI of Chapter 2, to the Village Board within seven days of receipt of the order. The Village Board shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing, the Village Board may reverse, affirm or modify the order or determination appealed from, and the grounds for its decision shall be stated in writing. The Village Board shall, by letter, notify the party appealing the order or determination of its decisions within ten days after the hearing has been concluded. The Board shall file its written decision with the clerk.
(Code 1999, § 6-4-1)

SECTION 2: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage and publication.

VILLAGE BOARD, VILLAGE OF WESTON

By: Fred Schuster
Fred Schuster, Village President

ATTEST:

Sherry Weinkauff
Sherry Weinkauff, Village Clerk

Adopted: 3/2/2009

Approved: 3/2/2009

Published: 3/7/2009

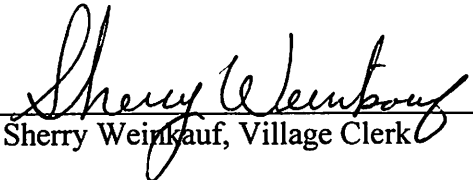
**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
NOTICE OF NEWLY ENACTED ORDINANCE**

PLEASE TAKE NOTICE that the Village of Weston enacted a new Section 90.103 of the Village ordinances entitled "Protection of Trees and Shrubs" on the 2nd day of March, 2009. The section establishes policies for the control of planting, removal, maintenance and protection of trees and shrubs in the Village. This article shall apply to tree and shrubs growing or planted after the effective date of the ordinance from which this section is derived in or upon public areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, safety, or welfare of the public, public areas, or trees within either public or private areas. This ordinance empowers the Village Board or Village Arborist to require landowners to remove, prune, or treat specified trees, shrubs, or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs, or plants on private lands within the Village. This ordinance defines processes for the planting and treatment of trees and shrubs and how the abatement costs are assessed for both public and private properties in the Village. The new Sec. 90.103 also provides for penalties and enforcement and a process for appealing determinations and orders from the Village Arborist.

A full text of Sec. 90.103 may be obtained at the Village Clerk's office, Weston Municipal Center, 5500 Schofield Avenue, Weston, Wisconsin 54476 or on the Municipal Code page of the Village's website located at <http://www.westonwisconsin.org/government/municode.php>. The Clerk's phone number is (715) 241-2626.

Dated this 2nd day of March, 2009.

VILLAGE OF WESTON

By: 
Sherry Weinkauff, Village Clerk

Published 3/7/09

STATE OF WISCONSIN
Marathon County } ss.

VILLAGE OF

WESTON,
MARATHON
COUNTY,

WISCONSIN
NOTICE OF
NEWLY ENACTED

ORDINANCE
PLEASE TAKE
NOTICE that the Vil-
lage of Weston en-
acted a new Section
90.103 of the Village
ordinances entitled
"Protection of Trees
and Shrubs" on the
2nd day of March,
2009. The section es-
tablishes policies for
the control of plan-
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nance and protection
of trees and shrubs in
the Village.

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for appealing deter-
minations and orders
from the Village Ar-
borist.

A full text of Sec.
90.103 may be ob-
tained at the Village
Clerk's office, Weston
Municipal Center, 5500
Schofield Avenue,
Weston, Wisconsin
54476 or on the Munic-
ipal Code page of the
Village's website lo-
cated at <http://www.westonwisconsin.org/government/municipalcode.php>. The
Clerk's phone number
is (715) 241-2626.

Dated this 2nd day
of March, 2009.
VILLAGE OF
WESTON
By: Sherry Weinkauff,
Village Clerk
7-1T
WNAXLP

(Seal)



Michael Beck, being duly

sworn, doth depose and say that he (she) is an authorized repre-
sentative of The Daily Herald, a newspaper published at Wausau,
and that an advertisement of which the annexed is a true copy,
taken from said paper, was published therein on

3-7-09

(Signed)

Publisher

(Title)

Subscribed and sworn to before me March 7, 2009

Curtis Axness
Notary Public, Marathon County, Wisconsin

My Commission expires 3-6-2011

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