

294-3 Village forester

C. Do not leave a clause allowing the homeowner permission to grant access. If this is an emergency situation, you need permission to enter the property, period, to inspect the tree. Consider:

Authority to Enter Private Premises. The Village Forester or his/her authorized representative shall have the authority to enter upon private real estate, excluding any buildings thereon, at reasonable times for the purposes of examining or taking the necessary samples of any suspected nuisance tree or shrub located upon or over such premises, and enforcing the provisions of this ordinance.

Add to Village Forester portion an interference portion. Suggestion:

Interference Prohibited. No person shall interfere with the Village Forester or his/her authorized representative while engaged in the execution or enforcement of this ordinance.

294-5 Subdivision Review

Items A (b) and B (2) do not match. The spacing amounts should be the same throughout the ordinance.

Add a section on guarantee, such as:

The subdivider shall be responsible for replacing trees that die within two years of planting. The owner of a lot shall be responsible for all tree relocation or replacement costs due to their actions or construction.

294-6 Restricted Activities

E. I would extend these dates to March 15 – July 31. There is an option to get permission to prune during this period, but since our winters seem to be shorter, it is best to start the ban earlier and since summers tend to be a bit longer, extend the date as well.

Add a few sections including: Tree protection during construction
Appeal to orders of Village Forester
Penalties
Emergencies
Severability

TREE PROTECTION DURING CONSTRUCTION IN A PUBLIC AREA

(1) Definitions.

(a) For the purposes of this section, “public tree” shall be extended to include any tree located on private property adjacent to a public area with any part of the tree protection zone of such tree extending into the public area

(b) “Tree protection zone” shall mean a zone of protected space surrounding any public tree extending from the topmost branch or leader downward to a distance of thirty-six (36) inches below the surrounding ground surface level. The radial dimension from the center of the tree to the outermost horizontal limit of the zone is determined by the diameter of said tree as measured at four and one half (4 ½) feet above ground surface level.

(c) “Construction” shall mean the installation, alteration, repair, replacement or relocation of any of the following:

1. Any street, curb, sidewalk, pavement, street light, traffic signal or other surface structure.
2. Any underground utility distribution and service facility including water pipe, sanitary and storm sewer, gas pipeline, electric power and communication wire, cable, conduit, duct and associated vaults, manholes, pull boxes; and any irrigation facilities.
3. Any overhead wire, cable and associated support structure.

(2) Permit required. No individual person, firm, partnership, association, corporation or government entity, except as provided in subsection (6) of this section, shall do or cause to be done, any construction as herein defined, in any public area in the Village prior to issuance by the Village forester of a valid Forestry Special Construction Permit.

(3) Permit Application, Plan Review, Approval. Any person proposing to do construction work in a public area shall apply in writing to the Village forester for a permit to do such work. Such application shall specify the location and description of the proposed work, and the estimated start and completion dates. A complete copy of the construction plans shall be provided along with said application. If, upon review of the construction plans and any supplemental information provided by the applicant, the Village forester determines that the work is necessary and can reasonably be expected to progress in compliance with all forestry specifications and conditions, he/she shall issue the permit

(4) Permit Form, Expiration, Compliance, Inspection. Permits shall be issued by the Village forester on the standard form for this purpose. The permit shall

specify the forestry specifications and any special conditions or requirements to be satisfied in connection with the work. Permits issued under this section shall specify an expiration date not to exceed twelve (12) months after the date of issuance. The Village forester shall inspect the work in progress on a regular basis to ensure compliance with the terms of the permit.

(5) Permit Exemption. No permit shall be required for construction proposed by any department or division of Village government; however, all other provisions of this section shall apply. Any contract entered into between any Village department or division and a contractor for hire shall contain the construction specification provisions of this section. Any Village employee performing construction work under this subsection shall also comply with the provisions of this section.

(6) Standing Permit for Repair by Utility Providers. Any agency that routinely completes work related to a utility may request a "Standing Permit for Repair." This permit will allow that agency to complete minor repairs without the need for a separate permit for each repair occurrence. Permits will be valid for a term of one calendar year and must be renewed annually.

(a) Conditions of permit.

1. Notification. Permittee shall notify the Village forester by phone, fax or other means prior to commencing a necessary repair, and shall give the location, date and time of the work. Emergency repairs necessary to protect life and property, and other necessary repairs during non-business hours shall be exempt from pre-notification but shall be reported on the next business day.

2. All work performed in accordance with this subsection shall be subject to the specifications set forth in this section, and any special conditions specified in the permit.

(b) Permit Form, Issuance, Renewal, Compliance, Inspection. Standing Permits shall be issued by the Village forester on the standard form for this purpose. The permit shall specify the forestry specifications and any special conditions or requirements to be satisfied in connection with the work. Permits issued under this section shall be valid from January 1 through December 31 and shall be automatically renewed for a like term. The Village forester shall inspect the work and worksite from time to time to ensure compliance with the terms of the permit.

APPEAL FROM ORDER OF THE VILLAGE FORESTER.

(1) A person who receives an order from the Village Forester and objects to all or part thereof may, within ten(10) days of receipt of order, notify the Village Forester in writing of the nature of the objection and request a conference with the Village Forester and Department of Parks, Recreation and Forestry. The Department of Parks, Recreation and Forestry shall schedule such a conference within ten (10) days of receiving the request. If the person objecting to the order wishes to further appeal the results of the conference, that person may, within ten (10) days of the conference, make a written request to appeal the order by requesting a hearing before the Parks, Recreation and Forestry Committee. The Parks, Recreation and Forestry Committee shall schedule a hearing of the appeal within fifteen (15) days of receiving the appeal. Within ten (10) days of the hearing the Parks, Recreation and Forestry Committee shall notify the appellant of its decision in writing. The Parks, Recreation and Forestry Committee may affirm, cancel, or modify the order, in its discretion, to best conform such order to the intent of this ordinance. The decision of the Parks, Recreation and Forestry Committee shall become final after it is reviewed by the Common Council.

PENALTIES.

(1) Every person convicted of a violation of this section shall suffer a forfeiture not to exceed \$1,000.00 together with costs of prosecution, and in lieu of payment assessed, imprisonment for a period not to exceed thirty (30) days in the county jail. In addition to the forfeiture the Village may require restitution for the fair market value of the tree(s) and /or shrub(s) which were damaged or destroyed as result of violation of this ordinance.

EMERGENCIES

(1) If The Village Forester, in the case of emergencies, such as windstorms, ice storms, insect/disease outbreaks or other disasters, may waive the requirements of this Ordinance so that private or public work to restore order in the Village is in no way hindered.

SEVERABILITY

(1) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision will not affect the validity of any other section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

