

## Chapter 178

### TREES

#### GENERAL REFERENCES

Streets and sidewalks — See Ch. 163.

Noxious weeds and growth — See Ch. 194.

Subdivision of land — See Ch. 167.

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#### § 178-1. Title.

This chapter shall be known and may be cited as the “Street Tree Ordinance of the Village of Palmyra.”

#### § 178-2. Definitions and word usage.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

ARBORICULTURE or TREE PRESERVATION — Includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees, and the removal and prevention of tree pests, blights and diseases of any kind and all kinds.

CITY ARBORIST or VILLAGE ARBORIST — The Superintendent of Buildings and Grounds of the Village of Palmyra or a specially assigned member of his staff.<sup>1</sup>

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE — Any public street, public highway, public park, or any property owned or held by the Village of Palmyra within the boundaries of said Village.

STREET TREE or TREE — A tree in a public place, except where otherwise indicated.

VILLAGE — The Village of Palmyra.

#### § 178-3. Appointment and jurisdiction of Village Arborist.

- A. Appointment. There is hereby created the office of Village Arborist for an indefinite term. The Superintendent of Buildings and Grounds shall, by virtue of his office, be the Village Arborist.<sup>2</sup>
- B. Scope of authority. The Village Arborist is hereby given full jurisdiction, authority,

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

control, supervision and direction of all trees which now or which may hereafter exist upon any public place in this Village and over all trees which exist upon any private property in this Village when such trees constitute a menace to this Village.

- (1) Issuance of permits. Said Village Arborist is also given full jurisdiction, authority, and control in connection with the issuing of permits hereinafter provided for.
  - (2) Delegation of duties and authority. In the exercise of any or all of the powers herein granted, the Village Arborist shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the Village as he may from time to time determine.
- C. Order to preserve or remove. The Village Arborist shall have the authority and it shall be his duty to order the trimming, preservation or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

**§ 178-4. Required permit and conditions for granting thereof.**

- A. It shall be unlawful for any person to plant, remove, destroy, cut, prune, treat, break, climb, injure or spray any tree existing on any public place in this Village, or to authorize or procure any person to do so, or to remove or tamper with any device placed for the protection of any tree, or to attach any rope, wire, chain, sign or other device placed for the protection of said tree, or to authorize or cause the same to be done, except having first obtained written permission from the Village Arborist to do so.
- B. Such permit, when granted for the planting of any tree to be located on any public place in this Village, shall designate the species of tree to be planted, the required spacing and required minimum planting size.
- C. Application data. The application for permit herein required shall state the number and kind of trees to be trimmed, sprayed, preserved, removed or planted; the kind of treatment to be administered; and such other information as the Village Arborist shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.
- D. Standards for issuance. The Village Arborist shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.
- E. Supervision. The Village Arborist shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this chapter.
- F. Issue conditional permit. The Village Arborist shall have the authority to affix reasonable conditions to the grant of a permit hereunder.
- G. Exemptions. No permit shall be required to cultivate, fertilize or water public trees or shrubs. The Village Arborist may authorize any person to do any work or act

described in Subsection A of this section without written permit whenever he determines that such work or act will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this chapter.

**§ 178-5. General tree and shrub regulations.**

- A. Injury to trees and shrubs prohibited. No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permit from the Village Arborist in the case of a public tree or shrub, do, or cause to be done by others, any of the following acts:
- (1) Secure, fasten or run any rope, wire, sign or other device or material to, around or through a tree or shrub.
  - (2) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree or shrub.
  - (3) Permit any toxic chemical, gas, smoke, salt, brine, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub.
  - (4) Excavate any ditch, tunnel or trench or lay any drive within a radius of 10 feet from any tree or shrub.
  - (5) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees or shrubs which may be injured or defaced by, or where said injury or defacement may arise out of, in connection with or by reason of such an operation. Quality of said guard shall be determined by the Village Arborist.
  - (6) Knowingly permit any unprotected electric service wires to come in prolonged contact with any public tree or shrub.
  - (7) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
- B. Trimming of trees. The Village Arborist shall and he is hereby directed to keep all trees standing upon any public place in this Village trimmed so that the branches of such trees projecting over any public sidewalk, private driveway, or into any public street beyond the curblin, shall not conflict with the public welfare.
- C. Trimming of trees on private property. All trees standing upon private property in this Village having branches projecting into public highways or public places shall, under the supervision of the Village Arborist, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public sidewalk, public place or 13 feet over a public highway.
- D. Obstruction of view at intersections prohibited. Notwithstanding any other provision of this chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the Village any hedge, tree, shrub or other growth which may obstruct the view

of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing said intersection. Any such hedge, tree, shrub or growth is hereby declared to be a public nuisance.

**§ 178-6. Certain trees prohibited.**

Any silver maple, honey locust, poplar basswood, box elder, catalpa or willow upon private property in this Village in such close proximity to any public place in this Village as will permit the roots of said tree to penetrate through or under the surface of any public place in this Village is hereby declared to be a public nuisance, and may be abated by the Village Arborist as provided in §§ 178-3C and 178-8.

**§ 178-7. Preservation and removal of trees on public property.**

The Village Arborist shall have the right and duty to trim any tree existing on any public place in this Village so as to insure the public safety or to preserve the function or beauty of such public place; and he shall further have the right to remove any such tree, or any part thereof, which is in an unsafe condition or which, by reason of its location or nature, is injurious or detrimental to other public improvements in this Village, or is infected with any injury, fungus, insect, or other pest or disease which cannot otherwise be controlled. Such infested or infected tree is a public nuisance.

**§ 178-8. Procedure upon order to preserve or remove.**

When the Village Arborist shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property as authorized in §§ 178-3C and 178-6 herein, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

- A. Method of service. The order required herein shall be served in one of the following ways:
- (1) By making personal delivery of the order to the person responsible.
  - (2) By leaving the order with some person of suitable age and discretion upon the premises.
  - (3) By affixing a copy of the order to the door at the entrance of the premises in violation.
  - (4) By mailing a copy of the order to last-known address of the owner of the premises, by registered mail.
  - (5) By publishing a copy of the order in local paper once a week for three successive weeks.
- B. Time for compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the Village Arborist shall have the authority to require compliance immediately upon service of the order.
- C. Appeal from order. A person to whom an order hereunder is directed shall have the

right, within five days of the service of such order, to appeal to the Board of Trustees, who shall review such order within 20 days and file its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within 10 days after an appeal shall have been determined.

- D. Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, the Village Arborist shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
- E. Special assessment. If the cost of remedying a condition is not paid within 30 days after receipt of a statement therefor from the Village Arborist, such cost shall be levied against the property upon which said hazard exists, as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as herein provided. Such special assessment shall be collected, with a forfeiture of 5% and interest for failure to pay at the time fixed by the assessing ordinance.<sup>3</sup>

#### **§ 178-9. Prohibiting stone or concrete on ground adjacent to tree trunk.**

It shall be unlawful for any person to place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in this Village without first having obtained written permission. Unless otherwise provided for there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for a tree three inches in diameter, and for every two inches of increase of such diameter there shall be an increase of at least one square foot of open ground.

#### **§ 178-10. Moving of trees.**

All moving of trees upon any public place in this Village made necessary by the moving of a building or structure or any other private enterprise shall be done under the supervision of and with the written permission of the Village Arborist, and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions to obtaining such permission, shall deposit with the Village such sum in cash as the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof; provided, however, that in lieu of such cash deposit the Village Arborist may, in his discretion, accept a good and sufficient bond in like amount, conditioned upon the payment of all the cost of such moving and replacing.

#### **§ 178-11. Duties of private owners.**

It shall be the duty of any person growing a tree within a public highway or responsible for trees growing on property abutting on public places supporting trees or plants to:

- A. Trim his trees so as not to cause a hazard to public places or interfere with the

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

proper lighting of public highways by the street lights, and so that the minimum clearance of any overhanging portion thereof shall be nine feet over footways and 13 feet over vehicular ways.

- B. Treat or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to trees or plants in public places.
- C. Remove and refrain from planting any of the aforementioned species in § 178-6.

**§ 178-12. Authority of Village Arborist to enter private premises.**

The Village Arborist shall have the authority to enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this chapter.

**§ 178-13. Interference with objectives of Village Arborist prohibited.**

No person shall prevent, delay or interfere with the Village Arborist or his agents, employees or servants while they are engaged in carrying out any work or activities authorized by this chapter.

**§ 178-14. Penalties for offenses.<sup>4</sup>**

Any person who shall violate any provision of this chapter shall be punishable, upon conviction, by a fine not exceeding \$250 or a term of imprisonment not exceeding 15 days, or both, for each violation. Each day during which the violation shall continue shall constitute a separate offense.

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).