

CHAPTER 6

PARKS, PARKWAYS and ENVIRONMENTAL PROTECTION

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6.01 PURPOSE. The purpose of this chapter shall be to protect in the Village, the parks and parkways and appurtenances thereto from fire, abuse and desecration, to provide for the recreational use of these areas; to control and regulate traffic and maintain general order therein. The Chapter shall also preserve, protect and encourage the 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. The chapter promotes such rules and order to generally protect, promote and enhance the quality of life, general welfare and public health and safety of the people of the Village and its parks and parkways.

6.02 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.

(1) **BOARD.** Is the Village Board.

(2) **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.

(3) **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 or removal of more than three trees from a lot or parcel.

(4) **PARK, PARKWAY.** The terms "park" and "parkway", wherever used herein unless otherwise stated, shall include the grounds, buildings thereon, water therein, and any other property which is now or may hereafter be under the control or jurisdiction of the Sussex Village Board with the advice and guidance of the Park and Recreation Board

(5) **PARK AND RECREATION BOARD.** Is the advisory body appointed by the Board whose duties are outlined in Chapter 1, but generally provide advice and guidance to the Board on parks and recreation matters. The Park and Recreation Board is not created per Wisconsin Statutes Section 27.13 or 27.08 and it does not have such statutory powers.

(6) **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 to which the public has free access as a park.

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

(8) **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 5 inches or greater and a height of 8 feet or greater which are in fair or better condition, excluding those species of trees established from time to time by the Village Forester on the invasive/ undesirable species list. For trees to be in fair or better condition the tree must meet the minimum criteria:

(A) The tree must have a life expectancy of greater than ten (10) years.

(B) The tree must have a relatively sound and solid trunk with no extensive decay or cavity, and less than 20% radial trunk die-back.

(9) 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.

(10) 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.

(11) 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.

(12) VILLAGE. The Village of Sussex.

(13) VILLAGE FORESTER. The actual individual or their designee assigned by the Board to exercise the authority of Village Forester as described herein.

(14) VILLAGE TREE BOARD. The Village's Park and Recreation Board also serves as the Village's Tree Board to review matters of forestry in the Village. It is hereinafter referred to as "Village Tree Board"

6.03 HOURS WHEN PARKS ARE OPEN. The parks and parkways (excluding Village Park) shall be closed at 9:00 p.m. each night until sunrise the following morning. Village Park shall be closed at 11:00 p.m. each night until 5:00 a.m. the following morning. No person shall remain therein during said hours, provided that the Board may from time to time, in all or any of the parks or parkways, publish or post closing hours different from the above, or discontinue closing hours, as in the exercise of the judgement of the Board may appear reasonable and necessary.

6.04 CLOSING PARK AND PARKWAY FACILITIES TO THE PUBLIC. In case of an emergency, or when in the judgment of the Board the public interest demands it, any portion of the parks or parkways or buildings therein may be closed to the public, or to designated persons until permission is given to return.

6.05 INTERFERENCE WITH PARK EMPLOYEES. No person shall interfere with or in any manner hinder any employee of the Village, nor any employee of a contractor while engaged in construction, repairing, or caring for any portion of the parks or parkways, or while in the discharge of the duties conferred by this chapter.

6.06 USE OF LIQUOR IN PARKS. No person shall bring into or drink any spirituous vinous, malt or mixed liquors in any park or parkway, except in such areas as designated by the Board and then only by written permission of the Board and except at such places as beverages may be stored in a park building or on the grounds overnight without prior approval of the Board.

6.07 DISORDERLY CONDUCT.

(1) No person shall use threatening, abusive, insulting, obscene, indecent language which constitutes a breach of the peace.

(2) No person violating any of the prohibitions enumerated in (1) above shall be allowed to remain in any park or parkway.

6.08 SMOKING: WHEN PROHIBITED.

(1) No person shall be permitted to smoke, or hold a lighted cigarette, cigar, or pipe in any building, or section of a building, or in any park or parkway area where officially posted notices so prohibited.

(2) No person shall throw or drop a lighted cigar or cigarette stub or empty a lighted pipe from an automobile moving along a parkway drive.

6.09 CARE OF WASTE.

(1) No person shall scatter, drop or leave any piece of paper, rag, tin can, bottle, glass, peanut shells, melon rinds, banana peels, or other garbage, dead flowers, or other rubbish in any portion of the parks or parkways, except in the receptacles provided for that purpose.

(2) Any person who breaks a bottle or other glassware in any park or parkway shall immediately pick up the broken pieces and remove same to a park waste container.

(3) No person shall deposit, dump, throw, or place any earth, rubbish, dust, manure, paper, garbage, or other refuse matter or any sand, stone, lumber, or building material, or any substance in the waters, grounds or roadways of any park or parkway without written permission of the Board.

6.10 LOUDNESS PROHIBITED. Auto radios, portable radios, television sets, band instruments, and any musical devices must be turned low at all times so as not to be heard from a distance beyond 20 feet from the instrument, except upon written permission of the Board.

6.11 PERMIT REQUIRED FOR PUBLIC MEETINGS, SPEECHES, SERVICES and DEMONSTRATIONS. All public meetings, assemblies, entertainments, tournaments, orations, harangue, public speech, demonstration, sermon, or public discussion on any subject, religious, social, political, or otherwise, in connection with sale of any article, are prohibited within the limits of any park or parkway except when written permission of the Board has first been granted, and then only in areas designated as assembly areas by the Board. No person shall use a loud speaker or any other amplifying device without approval of the Board. The Village intends for this section to honor free speech and will consider requests on a content neutral basis with the goal being the protection of the safety and welfare of the community, and the public's free enjoyment of park spaces unencumbered from the effects of others use of the park.

6.12 PERMIT REQUIRED FOR PARADE, FUNERAL PROCESSION. No military or other parade or procession or funeral shall take place in or pass through the limits of any park or parkway except upon written permission of the Board.

6.13 PERMIT REQUIRED FOR ADVERTISING, SALES.

(1) No person shall sell, hawk, merchandise, keep, or offer for sale any tangible or intangible article, merchandise, or thing; nor solicit for any trade, occupation, business or profession, or for alms, within any park or parkway, without the written permission of the Board.

(2) No person shall distribute, post, affix or display any card, handbill, sign, placard, target, banner, flag (except that of the United States), or advertisement of any kind within any park or parkway, or upon any of the gates or enclosures thereof without the written permission of the Board. The word "distribute" shall include the scattering of printed matter from aircraft.

6.14 GAMES AND AMUSEMENTS IN DESIGNATED AREAS; GAMBLING PROHIBITED.

(1) No person shall engage in any sport, game, race or amusement in any park or parkway except upon such portions thereof as may be designated for that purpose, and then only under such rules and regulations as may be established by the Board.

(2) No person shall be allowed to tell fortunes or to play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice, corn or other device for money, chips, credit, or any other thing representative of value; nor shall any person be allowed to maintain or exhibit any gambling table or other instrument of gambling or gaming.

6.15 PERMITS; INTERFERENCE WITH PERMITTEE PROHIBITED.

(1) No person shall in any manner disturb, harass, or interfere with any person or party holding written permission as indicated above, nor with any of their equipment or property.

(2) Permits for the exclusive use of any picnic or play area for any specified date or time may be granted at the discretion of the Board, and no person shall in any manner disturb or interfere with any person or party occupying the ground under such a permit, nor with any of their equipment or property.

6.16 USE OF FIREARMS AND FIREWORKS; HUNTING WITH BOW AND ARROW; TRAPPING, AND THROWING OF STONES OR MISSILES. No person, except a sheriff, police officer or their deputies, or a member of the Military in the line of duty, shall carry, fire, or discharge any gun, pistol, or firearm, nor shall any person hunt with bow and arrow within any park or parkway. The word "gun" shall include air gun. No person shall discharge fireworks of any description except with permission from the Board. No person shall throw stones or missiles into or within any park or parkway. Notwithstanding the foregoing, activities specifically allowed by Wisconsin Statutes Section 175.60 and other applicable laws of the State of Wisconsin related to carrying weapons are not prohibited by this section, provided such activity is conducted in strict compliance with such State laws.

6.17 MAKING OF FIRES.

(1) No person shall make or kindle a fire for any purpose except in places provided therefore, and then subject to such regulations as may be prescribed.

(2) The use of charcoal burners in designated picnic areas shall be permitted provided lawns and other vegetation are not damaged and provided further that all unburned coals or ash are disposed of in such manner as to prevent fire or damage to any park property.

6.18 ANIMALS IN PARKS AND PARKWAYS.

(1) **ANIMALS ARE NOT ALLOWED; EXCEPTIONS.** No person shall conduct, lead or drive an animal within a park or parkway, except as follows. This subsection does not apply to:

(A) Those animals placed in the park or parkways by the authority of the Board.

(B) Horses when saddled or harnessed and in use for riding or pleasure, driving only on roadways or paths duly designated.

(C) Animals on leash or regulated by Sub. (2) hereof.

(2) **ANIMALS ON LEASH; WHEN EXCLUDED.** No person having the control or care of an animal shall permit such animal to enter or remain in a public park or parkway unless it is led by a leash of suitable

strength not more than six (6) feet in length and then only within such areas in parks as have been designated by order of the Board. The Board shall cause signs to be posted in areas wherein animals are not permitted.

(3) **ANIMAL EXCREMENT DISPOSITION.** The owner, keeper or person having physical possession of an animal or animals shall remove and properly dispose of any excrement deposited by said animal immediately after the animal has relieved itself in the park.

(4) **ANIMALS TIED-UP.** No person shall tie up or leave unattended any animal in a park or parkway.

6.19 FISH, WATERFOWL, GAMEBIRDS.

(1) No person shall take or attempt to take any fish from, or send or throw any animal or thing into or upon, any of the waters of the parks or parkways; or kill, injure, or attempt to injure, or unnecessarily disturb the fish in said waters, except with permission of the Board.

(2) No one shall kill, injure, or attempt to injure, or unnecessarily disturb any waterfowl or other birds or animals, wild or domestic, within any of the parks or parkways. Nor shall any person rob or disturb the nest or eggs of any bird or other animal therein.

6.20 INJURY TO VEGETATION, STRUCTURES, AND EQUIPMENT.

(1) No person shall climb any tree, or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or misuse any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure, or other property within any park or parkway.

(2) No person in any park or parkway shall remove any device for the protection of trees or shrubs; nor shall any person fasten a horse or other animal next to any tree, shrub or grass plot which may become damaged by the action of the animal.

(3) No person shall destroy or unlawfully remove, take, or meddle with any property of any kind or nature belonging to the Village without the consent of the Board

(4) No person shall enter upon, into, or open any public building or public structure owned or operated by the Village other than those areas of public buildings that are held for the public without the express consent of the Village.

(5) Park buildings and shelters in Village parks and parkways are intended to be used for picnics, social gatherings, and other placid and sedentary activities. Activities that are antithetical to those uses, such as the use of wheeled recreation equipment or transportation devices such as in-line skates, roller skates, skateboards, scooters, and bicycles, are prohibited within park buildings and shelters.

(6) In-line skates, roller skates, skateboards, scooters, and bicycles are prohibited inside park buildings and shelters.

(7) Park benches and picnic tables in Village parks and parkways are intended to be used for sitting, eating, and similar stationary and sedentary uses. Activities that are antithetical to those uses, such as using park benches or picnic tables as ramps, jumps, or obstacles for in-line skating, roller skating, skateboarding, scooting, bicycling or other similar activities where the user of the bench or picnic table is not in a stationary sedentary position are prohibited.

(8) No person shall ride on or jump over any retaining wall located in Village parks or parkways by use of in-line skates, roller skates, skateboards, scooters, bicycles, or any other similar recreation equipment or transportation device.

(9) Additional rules and regulations may apply to the use of park buildings and shelters, as the Board may adopt pursuant to Section 6.32 of this Chapter, and such additional rules and regulations shall be posted in the park buildings and shelters.

(10) Nothing herein, and no rule or regulation that may be adopted by the Board, shall be interpreted as prohibiting the use of Village park buildings, shelters, benches or picnic tables by disabled persons using walkers, wheelchairs, or other enabling equipment or transportation device.

6.21 AIRCRAFT LANDING PROHIBITED. No person shall ascend or land with any aircraft, including gliders and parachutes, or engage in stunt flying or parachute landing in any park or parkway without the written permission of the Board.

6.22 SLEEPING, CAMPING REGULATED. No person shall sleep, or camp, or lodge in any park or parkway except in such places as designated for such purposes, as overnight or tourist, or trailer camps, or camp sites, without the written permission of the Board.

6.23 PRIVATE AND PUBLIC IMPROVEMENTS AND UTILITIES. No utilities or improvements whether public or private may be installed in a park or parkway without the permission of the Board unless said improvements and or utilities are subject to a recorded easement for the same.

6.24 TRAFFIC REGULATIONS.

(1) **REGULAR DRIVES AND PARKING AREAS.** No person shall drive any automobile, motorcycle, snowmobiles, unlicensed motor vehicle, or other vehicle of traffic or burden upon any part of the parks or parkways except the proper drives and parking areas, or permit the same to stand upon the drives or any part thereof so as to congest traffic or obstruct the drive, without permission of the Board.

(2) **VEHICLES FOR HIRE.** No person shall cause any taxi, bus, limousine, or other vehicle for hire to stand upon any part of the parks or parkways for the purpose of soliciting or taking in passengers or person other than those carried to the parks or parkways by said vehicle, without permission of the Board.

(3) **VEHICLES PROHIBITED.** No person shall cause any bus with or without passengers, nor any go-cart, dray, wagon, truck, or trailer or other vehicle carrying goods, merchandise, manure, soil, or any other articles, or solely in use for the carriage of goods, merchandise, manure, or other article, to enter or be driven in any part of the parks or parkways. This section shall not apply to vehicles engaged in the construction, maintenance, or operation of the parks or parkways, to vehicles making deliveries to the parks or parkways, nor to buses under permit of the Board.

(4) **TRAFFIC CODES.** Every person operating an automobile, motorcycle, unlicensed motor vehicle, or other vehicle of traffic or burden within the parks or parkways shall comply with the state, county and municipal traffic codes and with all orders, directions, and regulations of traffic officers, or officially displayed on any post, standard, sign, or device installed for the regulation of traffic.

(5) **SPEED OF VEHICLES.** The Board shall cause signs to be erected indicating speed limits on roads and drives in a park or parkway. Where no such signs are posted the speed shall in no case be greater than 15 miles per hour.

(6) **TRAFFIC CONTROLS.** The Board shall cause to be erected such other traffic control signs as are necessary for the proper regulations and safe movement of vehicles, pedestrians, and equestrians.

(7) **PARKING REGULATIONS.** Vehicles shall be parked only in designated parking areas. Parking along roads and drives may be controlled by appropriate signs. There shall be no overnight parking. No parking unless participating in Park activity. Exceptions must be approved by the Board.

6.25 REGULATION OF BICYCLE RIDERS. Riders of bicycles shall comply with the rules for the regulation of other vehicles, as stated in this section:

- (1) No person shall ride a bicycle upon the lawns, posted walks and foot trails in the parks or parkways.
- (2) Riders shall use due regard for their safety, the safety of other park users, and maintain control while operating the bicycle in a park or parkway.
- (3) Wherever possible, bicycles shall be parked in places provided for such purpose.

6.26 HORSEBACK RIDING REGULATIONS. Horseback riders shall comply with the following:

- (1) No person shall ride horseback in any park or parkway except upon designated roadways and bridle paths.
- (2) No person shall be permitted to ride horseback in any park or parkway after dark or before daybreak.
- (3) No person shall be permitted to ride or drive a horse which cannot be held under such control that it may be easily turned or stopped.
- (4) No person shall be permitted to ride or drive a horse in a reckless manner.
- (5) Pedestrians shall have the right of way when crossing a bridle path, and whenever groups of people are visible within 300 feet, horses shall be ridden at slow gaits.
- (6) Every rider shall comply with all Board rules and signs along the bridle paths.

6.27 BATHING AND SWIMMING REGULATIONS. Bathers and swimmers shall comply with the following:

- (1) No person shall wade, bathe, or swim within a park or parkway except at such pools or beaches as are or may be designated for that purpose by the Board.
- (2) No person shall wade, bathe, or swim in, or attend any such pool or beach without proper bathing attire.
- (3) No person shall take any tin cans, bottles or glassware of any kind, except eye glasses, into an area designated as a beach or pool for bathers by the Board.
- (4) Any other rules and regulations which may be posted at beaches, pools or in bathhouses or other buildings.

6.28 TENNIS AND BASKETBALL COURT REGULATIONS. All persons shall comply with the following:

- (1) No person shall use the courts for purposes other than tennis and basketball as applicable, except by written permission of the Board. The courts shall not be used for private lessons without proper permit from the Board.
- (2) No person shall take any tin cans, bottles or glassware of any kind, except eye glasses, into an area designated as a tennis or basketball court.
- (3) Rollerblades and skateboards are specifically prohibited on tennis and basketball courts.
- (4) Any other rules and regulations which may be posted at tennis or basketball courts.

6.29 USE OF RESTROOMS. All persons will use the restrooms in a park designated for that person's sex.

6.30 EXCLUSIVE USE. No person or organization will be permitted exclusive use of any areas or buildings in a park without written approval from the Board.

6.31 KEYS TO BUILDINGS. Private citizens shall not make copies of park keys or have any park keys in their possession for private use.

6.32 PARKS ADMINISTRATION.

(1) **PERMITS.** All permits shall be issued by a authorized employee of the Village in writing and subject to park rules and regulations as fully as though the same were inserted in said permits, and any person or persons to whom such permits have been granted shall be liable for any loss, damage, or injury sustained by the Village, or by any person by reason of the negligence of the person or persons to whom such permits have been granted, their servants or agents.

(2) **LEASING OF EQUIPMENT.** The Village may lease equipment suitable for recreational purposes to private or public organizations upon such terms as it may determine provided that any such lease shall contain the provision binding the lessee to save and keep the Village harmless from any and all liability whatsoever arising out of the leasing and use of such equipment, and provided further that the Village may, in its discretion, in each case require lessee to provide public liability insurance covering the use of such equipment.

(3) **SUPPLEMENTARY RULES.** The Board, may adopt additional or revised rules and regulations for the proper conduct and administration of the parks and parkways in the Village not inconsistent with this ordinance, and may perform such other acts with reference to the management of the said parks and parkways and to increase the comfort, safety, convenience and public welfare of the citizens of the village and of visitors to said parks and parkways in their use of the same.

(4) **GRANTING OR DENYING APPLICATIONS.** In consideration whether to grant or deny an application, the Board is limited to considerations of impact upon the park and its environs, such as: noise, traffic, number of persons present, crowd control, odor, smoke, dust, protection of park property, adequacy of facilities, and related health, safety and welfare issues. The board shall not consider, or base any decision upon, the subject matter or speech content of the activity. The Board shall approve or deny the application within 60 days of filing. Chapter 24 of the Sussex Municipal Code shall govern the administrative procedures and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a permit.

Sections 6.33 - 6.49 Intentionally Left Blank (Reserved for Future Use).

6.50 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 6.55.

6.51 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.

6.52 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.

6.53 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.

6.54 CREATION AND ESTABLISHMENT OF A VILLAGE TREE BOARD.

(1) There is hereby created and established a Village Tree Board for the Village of Sussex which shall consist of the members of the Park and Recreation Board.

(2) **TERM OF OFFICE.** The term of office will be concurrent with the terms of the Park and Recreation Board.

(3) **COMPENSATION.** Members of the Village Tree Board shall not receive compensation separate from what they receive for serving as a member of the Park and Recreation Board.

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

(5) **OPERATION.** The Village Tree Board shall follow the Park and Recreation Board rules pursuant to Chapter 1the Municipal Code.

6.55 PLANTING OF STREET TREES.

- (1) 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 for approval before commencement of such work.
- (2) Space trees according to their mature size and shape (species sizes). Plant trees no closer than 35 feet to another public street tree.
- (3) No street tree shall be planted less than 2 1/2 feet from curbs or curblines and sidewalks.
- (4) 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)
- (5) No street tree shall be planted closer than 15 feet of any fire hydrant
- (6) 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.
- (7) No street tree shall be planted over or within 8 lateral feet of any underground water line, sewer line, transmission or other utility.
- (8) No street tree shall be planted within 15 feet from a driveway or alley.
- (9) Any deviations from these regulations must be approved by the Village Tree Board.

6.56 TREE PROTECTION and TREE PRESERVATION PLANS

- (1) **PURPOSE.** Lands containing existing trees and/or wooded lots shall preserve trees and wooded areas or have said areas mitigated to ensure a healthy and diverse forested community
- (2) **PRE-CONDITIONS.** Prior to development a developer/owner shall file and receive approval of a tree preservation plan for said land to ensure compliance with this ordinance. No more than three protected trees shall be damaged, cut, or removed per parcel of land without a tree preservation plan approved by the Village Tree Board. No approval is required for pruning and maintaining trees or managing storm damaged trees. Approval by the Village Forester is required to verify condition of trees prior to removing dead or diseased trees. No approval is needed to remove trees on the following:
 - (A) Single or two family residential lots that are three quarters (3/4) of an acre or less in size.
 - (B) A single or two family residential lot within a platted subdivision created prior to January 2013 that is greater than three quarters (3/4) of an acre but less than one and one half (1 1/2) acres.
 - (C) On lands with a Sussex Plan Commission approved plan of operation for a silviculture business.
- (3) **REQUIREMENTS OF TREE PRESERVATION PLAN.** The tree preservation plan shall list all protected trees on the site proposed for development. The plan shall include species, DBH, and condition for each protected tree. The plan shall also include a site layout of existing protected trees and those scheduled for removal. The tree preservation plan standard is the preservation or mitigation of at least ninety (90) percent of the DBH of protected trees on the site that are in fair or better condition. If the site has a significant wooded area that will remain protected from development the Village Forester may allow

the tree preservation plan to not include the inventory of trees in that protected area, but the plan should indicate any protected trees scheduled for removal and any protected trees remaining not within the protected area. In order to calculate the 90% protection standard where wooded lots are being protected, but not inventoried the Village Forester may use estimates to calculate the DBH of protected trees being protected in that area with review of such items as acres of canopy coverage and tree density in the area or any other information available.

(4) **MITIGATION.** The developer/land owner may request mitigation to offset a portion of the protected tree preservation standard after reasonable efforts as determined by the Village Tree Board have been exhausted to meet the standard. 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" DBH loss replaced with 1" DBH of new tree(s). The type, size, and location of the replacement tree(s) shall be determined by Village Forester 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. If after review of the site there is insufficient space to mitigate trees on the site/lot itself, the developer/owner may meet their mitigation standard by establishing funds with the Village for tree planting by the Village in parks, public lands, and street right of ways in the form of an amount per 1.5" DBH. The amount shall be approved from time to time by the Village Board to reflect the cost of establishing trees by the Village.

(5) **PRIOR DEFORESTATION.** If trees were removed from land without 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/land owner shall also apply for and gain an approved tree preservation plan. This section does not limit any other requirements or exemptions found in the Ordinance.

(6) **PROTECTION STANDARDS.** For Protected trees scheduled to be preserved on the Tree Preservation Plan a snow fence shall be established by the developer/owner no closer than ten (10) feet outside from the dripline of the protected tree. A sign shall also be established and placed on the snow fence indicating to the public and site workers the area is not to be disturbed unless approved by the Village Forester to ensure preservation of the protected tree(s). These standards may be field adjusted by the Village Forester to provide for preservation of the trees and constructability of a site.

6.57 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.

6.58 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.

6.59 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.

6.60 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.

6.61 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.

Section 6.62-6.75 Intentionally Left Blank (Reserved for Future Use)

6.76 PENALTIES. Any person who shall violate any provisions of this chapter or any order, rule, or regulation made hereunder shall be subject to a penalty as provided below.

(1) Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

(2) In addition to any penalty imposed for violation of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates this any section of this Chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wis. Stats.

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