

## **CHAPTER 454. PLANTING, MAINTAINING, AND REMOVING TREES AND SHRUBS.**

**454.01. Purpose.** It is hereby declared to be the policy of the City of Ashland, Wisconsin, to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in the City in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the City; to promote and enhance the beauty and general welfare of the City; to prevent damage to any public sewer or water main, streets, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the City against the spread of disease or pests. It is the intent of the Common Council that the provisions of this ordinance shall apply to all trees, shrubs or plants growing or hereafter planted in or upon any public right-of-way or other premises owned or controlled by the City.

**454.02 Definitions.** Whenever the following words or terms are used in this ordinance, they shall be construed to have the following meaning:

(a) Person. The word “person” shall mean person, firm, association, or corporation.

(b) Public trees and shrubs. The words “public trees and shrubs” shall mean all trees or shrubs located or to be planted on any park, playground or other property owned or controlled by the City or on any public street, alley, sidewalk or highway within the public right-of-way.

**454.03. Tree Management Advisory Committee.** The Parks and Recreation Committee will also serve as the Tree Management Advisory Committee which shall serve in an advisory capacity to the City of Ashland. This Committee shall function in accordance with City of Ashland Ordinance Chapter 47.

**454.04. Director of Public Works or Designee.** The Director of Public Works or the Director’s designee shall direct, regulate and control the planting, care, and removal of all public trees and shrubs within the City and shall cause the provisions of this ordinance to be enforced.

**454.05. Private Planting on Public Property.** No person shall plant any tree, shrub or plant of any kind on any public property, including property between the lot line and curb or improved portion of any street or alley, without first having consulted the Director of Public Works or his designee and obtaining the applicable permit(s) from the Public Works Department.

### **454.06. Planting, Care and Removal of Public Trees and Shrubs.**

(a) Permit Required. No person or public utility shall plant, transplant, move, treat, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public tree or shrub within the city, or cause such acts to be done by others without first consulting the Director of Public Works or designee and obtaining the applicable permit(s) from the Public Works Department.

(b) Requirements and Conditions of Permits.

(1) As a condition of granting the removal of a public tree or shrub, the Director of Public Works or designee may require that the permittee plant one or more trees or shrubs in place of the one removed, and no permittee under such a conditional permit shall fail, refuse or neglect to plant trees or shrubs of the type, size, and in the location specified in their permit.

(2) If any public tree or shrub which is not a nuisance as defined in this ordinance, is to be removed at the request of the owner of the abutting property, the City shall not be obliged to effect such removal, but if the removal is made by the City, such owner of the abutting property shall pay to the City the full cost thereof.

**454.07. House Moving Permits.** No person shall move any building, structure or object exceeding 13 1/2 feet in height or width upon, over or along any public right-of-way or other public place without first obtaining written permission from the Director of Public Works or designee who may require the applicant to furnish a bond or cash deposit in the amount of \$1,500 to cover the cost of repairing or replacing any public trees or shrubs which are injured as a result of the moving operations, specify the route to be taken and impose any other conditions reasonably necessary for the protection of nearby public trees from injury.

**454.08. 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 the consent of the Director of Public Works or designee in the case of a public tree or shrub, does, or causes to be done by others, any of the following acts:

(a) Secure, fasten or run any rope, wire, sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.

(b) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree or shrub.

(c) Permit any toxic chemical, gas, smoke, salt brine, oil or other injurious substance to seep, drain to be emptied upon or about any tree or shrub.

(d) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees or shrubs which may be injured by such operations.

(e) Knowingly permit any unprotected electric service wire to come in prolonged contact with any public tree or shrub.

(f) Remove any guard, stake or other device or materials 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.

**454.09. Obstruction of View at Intersection Prohibited.** Notwithstanding any other provision of this ordinance, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets in the City 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. The Director of Public Works, or designee, shall have the authority to declare any such hedge, tree, shrub, or growth to be a public nuisance.

**454.10. Authority over Public Trees and Shrubs.** The Director of Public Works or designee shall have the authority to plant, trim, prune, spray, preserve, renew and remove public trees and shrubs or cause such work to be done as may be necessary to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the City; to promote and enhance the beauty and general welfare of the City; to prevent damage to any public sewer or water main, streets, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the City against the spread of disease or pests.

**454.11. Removal of Public Trees or Shrubs.**

(a) Whenever the Director of Public Works or designee proposes planting, pruning or removal of any living shade tree or shrub in the property between lot line and curb or improved portion of any street or alley that, in the opinion of the Director of Public Works or designee, does not present a hazardous condition posing imminent danger to public safety, he shall so notify the owner of the abutting land or the owner's agent in writing.

(b) In the event that the Director of Public Works or designee identifies a living shade tree or shrub in the property between lot line and curb or improved portion of any street or alley that, in the opinion of the Director of Public Works or designee, presents a hazardous condition posing imminent danger to public safety, he shall have the authority to trim, prune or remove the public tree or shrub without notification to the owner of the abutting land or the owner's agent.

(c) After receiving such notification, the owner of the abutting land or owner's agent may appeal the need for the specified work in accordance with Section 454.14.

**454.12. Authority over Private Trees and Shrubs.**

(a) The Director of Public Works or designee shall have the authority to trim and/or remove private trees and shrubs or cause such work to be done as may be necessary to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the City; to prevent damage to any public sewer or water main, streets, sidewalk or other public property; and to guard all trees and shrubs within the City against the spread of disease or pests.

(b) The Director of Public Works or designee shall have the authority to enter upon private premises after notifying the land owner for the purpose of examining any tree for disease located upon or over such premises and carrying out any of the provisions of this section.

**454.13. Removal of Private Trees or Shrubs.**

(a) Whenever the Director of Public Works or designee shall find, on examination, that a tree on private property is diseased, dead or damaged, he shall notify the owner or owner's agent in writing, or by publication in a newspaper of general circulation in the City, that the tree shall be removed by the owner within 30 days, or the tree will be removed by the City and the land owner shall pay to the City the full cost thereof.

(b) After receiving such notification, the owner or owner's agent may appeal the need for the specified work in accordance with Section 454.14.

**454.14. Tree Removal Appeal.** A land owner or owner's agent who receives a notification from the Director of Public Works or designee regarding the removal or alternation of a public or private tree or shrub may, within ten (10) days of receipt of the notification, advise the Public Works Director or designee in writing of the nature of the objection and request a conference with the Public Works Director or designee. The Director of Public Works or designee 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 five (5) days of the conference, make a written request to appeal the order by requesting a hearing before the Parks and Recreation Committee. The request for a hearing before the Parks and Recreation Committee shall be made in writing to the Public Works Director or designee. The Committee shall schedule a hearing of the appeal within fifteen (15) days of receiving the appeal. Within ten (10) days of the hearing the committee shall notify the appellant of its decision in writing. The 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 Committee shall become final after it is reviewed by the Common Council.

Notwithstanding anything to the contrary contained within ordinance, in the event the Director of Public Works indicates that his/her department is unable to comply with any provision of this ordinance he/she shall notify the City Administrator, who may issue a waiver from any provision of this ordinance.

**454.15. Interference with Director of Public Works Prohibited.** No person shall prevent, delay or interfere with the Director of Public Works or the Director's agents or employees while they are engaged in carrying out any work or activities authorized by this chapter.

**454.16. Penalties.** Any person who shall violate any provision of this chapter shall upon conviction thereof forfeit not less than \$75.00 nor more than \$500.00 together with the costs of prosecution. Unlawful action in respect to each separate tree or shrub shall be deemed to be a separate violation.

**ADOPTED:** 454 (2019-1916) 3/26/2019