

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN THE PUBLIC STREETS, PARKWAYS, AND OTHER MUNICIPAL-OWNED PROPERTY: ESTABLISHING A SHADE TREE COMMISSION AND ESTABLISHING THE OFFICE OF A MUNICIPAL ARBORIST AS THE AGENCIES PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES: PROVIDING FOR THE PRUNING AND REMOVAL OF TREES ON PRIVATE PROPERTY WHICH ENDANGER PUBLIC SAFETY: AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

The Village of Otisville Ordains that:

SECTION 1. Short Title

This ordinance shall be known and may be cited as the Municipal Tree Ordinance.

SECTION 2. Definitions

For the purpose of this Ordinance 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 include the singular, and words in the singular include the plural. The word SHALL is mandatory not merely directory.

1. Municipality is the Village of Otisville.

2. Department of Public Works is the department of "Parks and Street Trees", "Parks and Forestry", "Forestry", "Street Trees" or other designated department of the municipality under whose jurisdiction park and/or street trees fall.

3. Superintendent of Public Works is the Municipal Arborist, Forester, Tree Warden, or other qualified official of the Village of Otisville, County of Genesee, State of Michigan assigned to carry out the enforcement of this ordinance.

4. Person is any person, firm, partnership, association, corporation, company or organization of any kind.

5. Street or Highway means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

6. Park shall include all public parks having individual names.

7. Public Places shall include all other grounds owned by the Village.

8. Property line shall mean the outer edge of a street or highway.

9. Treelawn is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

10. Public Trees shall include all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

11. Large trees are designated as those attaining a height of forty-five (45) feet or more.

12. Medium trees are designated as those attaining a height of thirty (30) but less than forty-five (45) feet.

13. Small trees are designated as those attaining a height of twenty (20) but less than thirty (30) feet

14. Principal Thoroughfare shall mean any street upon which trucks are not prohibited.

15. Property Owner shall mean the person owning such property as shown on the current Village Tax Assessment Roll.

### SECTION 3. Establishment of a Shade Tree Commission

1. There shall be created a commission to be known as and designated as "Shade Tree Commission" composed of five (5) citizens of the Village. Four of the citizens shall be appointed by the Village President, with approval of the council. The fifth member shall be the Superintendent of Public Works. All members shall serve without pay. The four members appointed by the President shall serve as follows: one (1) for three (3) years, one (1) for two (2) years, and two (2) for one (1) year until their successors are duly appointed and approved by the Council. Successors to those members appointed by the President shall, thereafter be appointed for terms of three (3) years. Vacancies caused by death, resignation, or otherwise, shall be filled for the unexpired term in the same manner as the original appointments are made.

2. Duties of the "Shade Tree Commission" shall be as follows:

To study the problems and determine the needs of the Village of Otisville, in connection with its tree planting program.

To recommend to the proper authority, the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks as is designated.

To assist the property constituted officials of the Village of Otisville, as well as the Council and citizens of the village, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the village limits, whether the same be on private or public property, and to make such recommendations from time to time to the Village Council as to desirable legislation concerning the tree program and activities for the village.

To provide regular and special meetings at which the subject of trees insofar as it relates to the village may be discussed by the members of the Commission, officers and personnel of the village and its several divisions, and all others interested in the tree program.

3. That within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the President, said commission shall meet and organize by the election of a chairperson and the appointment of the Municipal Arborist as secretary. The said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

#### SECTION 4. Appointment of the Municipal Arborist.

The Municipal Arborist shall be the Village Superintendent of Public Works.

#### SECTION 5. Duties.

The Municipal Arborist shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the municipality, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the Village. He shall cause the provision of the Ordinance to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the Village Council.

#### SECTION 6. Authority of the Municipal Arborist

1. Authority. The Municipal Arborist shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of the trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

D. Notice of completion shall be given within five (5) days to the Municipal Arborist for his inspection.

2. Supervision. The Municipal Arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this Ordinance.

3. Condition of Permit. The Municipal Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.

4. Master Street Tree Plan. The Municipal Arborist shall have the authority to formulate a Master Street Tree Plan, with the advise, a hearing, and approval of the Shade Tree Commission. The Master Shade Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the village. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.

A. The Municipal Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the village.

B. Amend. The Municipal Arborist, with the approval of the Shade Tree Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.

#### SECTION 6. Permits required.

##### 1. PLANTING, MAINTENANCE, OR REMOVAL

A. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or village-owned property without first filing an application and procuring a permit from the Municipal Arborist. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Municipal Arborist.

B. Application for permits must be made at the Village Offices not less than forty-eight (48) hours in advance of the time the work is to be done.

C. Standards of issuance. The municipal Arborist shall issue the permit provided for herein if, in his judgment, to proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

## 2. PLANTING

A. Application Data. The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

B. Improper Planting. Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Municipal Arborist to remove or cause removal of the same, and the cost, plus ten (10%) percent, thereof shall be assessed to the owner as provided by law in the case of a tax lien.

## 3. MAINTENANCE

A. Application Data. The application required herein shall state the number and kind of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the municipal arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

## 4. REMOVAL, REPLANTING, AND REPLACEMENT.

A. Whenever it is necessary to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of a portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications are planted in an attractive manner on the adjoining property.

B. No person or property owner shall remove a tree from the treelawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Municipal Arborist, and without replacing the removed tree or trees in accordance with the adopted Arboriculture Specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the Municipal Arborist. The person or property owner shall bear the cost of removal and replacement of all trees removed.

## SECTION 8. Obstruction-Trees Pruned.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which

property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, or obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhang portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

1. Notice to Prune. Should any person or persons owning real property bordering on any street fail to prune trees as herein provided, the Municipal Arborist shall order such person or persons, within three (3) days after receipt of written notice, to so prune such trees.

2. Order Required. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

3. Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees. Cost, plus ten (10%) percent, shall be assessed to the owner as provided by law in the case of a tax lien.

#### SECTION 9. Abuse or Mutilization of Public Trees.

Unless specifically authorized by the Municipal Arborist, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

#### SECTION 10. Interference with Municipal Arborist.

No person shall hinder, prevent, delay or interfere with the Municipal Arborist or any of his assistants while engaging in carrying out the execution or enforcement of this Ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.

#### SECTION 11. Protection of Trees.

All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., which ever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches or lay

any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Municipal Arborist.

SECTION 12. Placing Materials on Public Property.

No person shall deposit, place, store, or maintain upon any public place of the village, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air and fertilizers to the roots of any tree growing therein, except by written permit from the Municipal Arborist.

SECTION 13. Violation and Penalty.

Any person, firm, corporation violating or failing to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than twenty-five (\$25.00) dollars, nor more than five hundred (\$500.00) dollars, or may be imprisoned for a term not exceeding ninety (90) days, or both. Each violation of this Ordinance shall be deemed a separate offense for the purpose of this Section.

SECTION 14. Severability

This ordinance is deemed severable and if any part shall be declared invalid by any court, such judgment or decree shall affect only that part directly involved in the controversy.

SECTION 15. Repealer

All Ordinances or parts of Ordinances in conflict herewith are repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 16. Date of Effect.

This Ordinance shall take effect ten (10) days after publication as set forth below.

SECTION 17. Approval and Publication

This Ordinance was approved by a vote of the Village Council, a quorum being present on 15 th day of April 1990, and ordered published in three public places in the Village of Otisville.

Robert Price  
Robert Price  
Village President

Jean Griswold  
Jean Griswold  
Village Clerk