

Chapter 483

TREES AND SHRUBS

[HISTORY: Adopted by the Village Board of the Village of Plover by Ord. No. 25-93 (§ 8.17 of the 1985 Code). Amendments where noted where applicable.; Repealed and Recreated by Ord. No. 8-12]

§ 483-01 Intent and Purpose

§ 483-02 Interdepartmental Coordination and Cooperation

§ 483-03 Definitions

§ 483-04 Standards and Specifications

§ 483-05 Village Forester

§ 483-06 Public Nuisance, Declaration and Abatement

§ 483-07 Prohibited Acts Regarding Public Trees and Shrubs

§ 483-08 Public Tree and Shrub Removal Requirements

§ 483-09 Planting, Maintenance, and Protection of Public Trees and Shrubs

§ 483-10 Tree/Shrub Protection During Construction in a Public Area or Public Way

§ 483-11 Emergency Provisions

§ 483-12 Appeals

§ 483-13 Penalties

§ 483-14 Severability

§ 483-01. Intent and Purpose.

- A. Having determined that a well managed urban forest provides many benefits to the Village, its residents and visitors, it is hereby declared to be the policy of the Village of Plover, Wisconsin, to regulate, finance and control the planting, removal, maintenance, and protection of trees and shrubs upon or in all public areas of the Village in order to:
- (1) Promote and enhance the aesthetics and general welfare of the Village.
 - (2) Eliminate and guard against dangerous conditions which may result in injury to persons using the public areas of the Village.
 - (3) Prevent damage to any public sewer, water main, street, sidewalk, or other public property.
 - (4) Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.
 - (5) Guard all public trees and shrubs within the Village against the spread of disease, insects, or pests.
 - (6) Promote and enable tree canopy cover throughout Plover to enhance the Village's environmental and aesthetic attributes.
- B. The provisions of this ordinance shall apply to all of the following:
- (1) Trees and shrubs presently or hereafter planted in or upon any public area or public way.

- (2) Any tree or shrub presently or hereafter planted upon any private premises that the Village Forester has determined endangers the life, health, or safety of persons or property adjacent to any public way or public area.

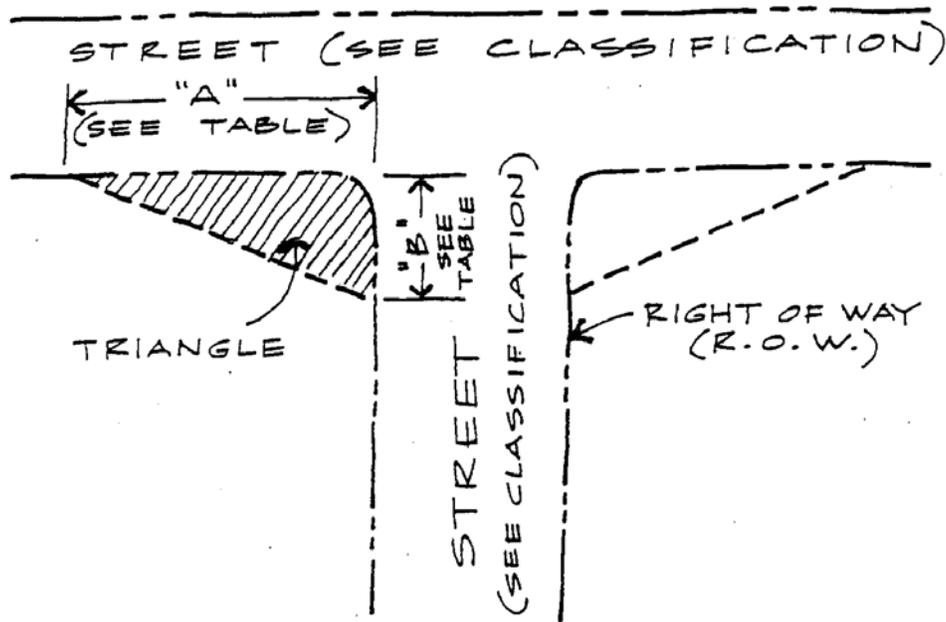
§ 483-02. Inter Departmental Coordination and Cooperation.

- A. Due to the complex nature and often conflicting interrelationships between trees, shrubs and turf and public improvements such as streets, sidewalks and underground facilities, it is recognized that there is a need to manage them in a manner that will minimize conflict and maximize the benefits to each. Therefore, it is hereby declared to be the intent of the Village of Plover, Wisconsin that there shall exist at all times, a policy of open communication and coordination between the various Village departments regarding the management, installation and maintenance of improvements for which they are each responsible, and the impacts they may have on trees, shrubs and turf.

§ 483-03. Definitions.

- A. In this chapter, unless the context clearly requires otherwise, the following words and phrases shall be defined as follows:
 - (1) “Village” shall mean the Village of Plover, Wisconsin.
 - (2) “Village Forester” shall mean the Public Works Manager, who shall act in this capacity, or any person designated by him/her to act as his/her agent regarding follow through or enforcement of the Tree and Shrub Ordinance and implementation of the Village Urban Forestry Management Plan.
 - (3) “Clear-vision triangle” shall mean a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. The size of the vision triangle shall be determined by the following table and figure:

"A" (distance in feet)		"B" (distance in feet)		
		Local Street	Collector Street	Arterial Street
25	Local street	25	60	120 to 150
60	Collector street	25	60	120 to 150
120	150 Arterial street	25	60	120 to 150



- (4) "Maintenance and protection" shall include all operations of trimming, pruning, chemically injecting, fertilizing, treating, bracing, cabling, and cutting any tree or shrub above or below ground.
- (5) "Person" shall mean any individual, firm, partnership, association, corporation or government entity.
- (6) "Public way" shall include all public streets, roads, boulevards, median strips, alleys, and sidewalks.
- (7) "Public area" shall include all public ways, parks, and other lands owned, controlled, or leased by the Village.
- (8) "Public nuisance" shall mean any tree or shrub or part thereof which, by its condition, interferes with the use of any public area or public way; is infected with a disease, infested with injurious insects or pests; is dead, declining or structural unsound as determined by the Village Forester, so as to endanger the life, safety and/or welfare of persons or property.
- (9) "Tree" shall mean a woody plant usually with a single stem unbranched at the base, reaching a mature height of twelve feet or more.
- (10) "Shrub" shall mean a woody plant usually with multiple stems branched at or near the base, reaching a mature height of less than twelve feet.
- (11) "Public trees and shrubs" shall mean any tree or shrub located in or upon any public way or public area.
- (12) "Private trees and shrubs" shall mean any tree or shrub located on or planted upon private property.
- (13) "Topping", shall mean the indiscriminant practice of cutting back large diameter branches (usually greater than three inches in diameter) regardless of branch juncture, typically leaving stubs. This practice causes substantial size reduction to the tree, destroys the natural form of trees, and reduces the life of the tree.

- (14) “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. The width of the tree protection zone shall be 1.5 feet for every diameter inch measured at DBH or 4 ½’ above the ground.

§ 483-04. Standards and Specifications.

A. The most recent version of following documents, each in its entirety, are hereby adopted and made a part of this ordinance upon passage:

- (1) ANSI A300 (Part 1) – 2008 Pruning
- (2) ANSI A300 (Part 3) – 2006 Supplemental Support Systems
- (3) ANSI A300 (Part 5) 2005 Management of Trees and Shrubs During Site Planning, Site Development and Construction
- (4) ANSI A300 (Part 6) – 2005 Transplanting
- (5) ANSI A300 (Part 9) – 2011 Tree Risk Assessment
- (6) American Standard For Nursery Stock ANSI Z60.1 - 2004

§ 483-05. Village Forester.

A. Powers and Duties.

The Village Forester, subject to the direction and supervision of the Village Administrator and/or Village Board, shall have the following general powers and duties:

- (1) To direct, manage, supervise, and control the Village’s forestry program to include the planting, removal, trimming, maintenance, and protection of all trees and shrubs in or upon all public areas and public ways of the Village; to supervise Public Works Department personnel and private contractors in the planting, removal, trimming, maintenance, and protection of said trees and shrubs.
- (2) To cause the provisions of this Ordinance to be enforced.
- (3) To guard all trees and shrubs within the Village’s public areas and public ways against the spread of plant diseases, insects or pests
- (4) To eliminate conditions which may endanger the life, health, or safety of persons who use public areas or public ways.
- (5) To eliminate conditions which may endanger the life, health, or safety of persons or property located on or within public areas or public ways.
- (6) To use appropriate means of communication to inform the public concerning the Village’s Urban Forestry Program, its ordinances, and proper tree and shrub care.
- (7) To implement and direct the Village’s Urban Forestry Management Plan.
- (8) Such other powers and duties as provided by the laws of Wisconsin, particularly sections 27.08 and 27.09 of the Wisconsin Statutes, by Ordinances of the Village, and by direction of the Village Administrator and/or Village Board.

B. Authority to Preserve and Remove Public Trees and Shrubs.

The Village Forester shall have the authority to plant, remove, maintain, and protect all trees and shrubs located in public areas and public ways, including directing work that is deemed necessary to preserve the beauty of public areas, and to protect life and property.

C. 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 trees or shrubs to determine if they are a public nuisance. All nuisance trees and shrubs shall be removed pursuant to Section § 483-06 of this ordinance and may be appropriately marked by the Village Forester.

D. 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.

§ 483-06. Public Nuisance, Declaration, and Abatement.

A. Public Nuisance.

The Village Board hereby declares any of the following to be a public nuisance and therefore subject to abatement pursuant to subsection C. of this section:

- (1) Any public or private tree or shrub, or part thereof, which by reason of its condition interferes with the use of a public area, is infected with an infectious plant disease, is infested with injurious insects or pests, is injurious to public improvements, is dead or cannot substantially support foliage, or endangers the life, health or safety of persons or property.

B. Public Nuisances Prohibited.

No person shall permit a public nuisance to remain in or upon any premises owned or leased by that person within the Village.

C. Abatement of Public Nuisances.

(1) Public Areas and Public Ways.

Whenever the Village Forester shall find on examination that a public nuisance exists within a public area or public way, he/she shall immediately cause such nuisance tree, shrub, or part thereof to be treated, trimmed, removed, or otherwise abated in such a manner as to destroy or prevent the spread or continuance of the nuisance. The manner in which the nuisance shall be abated shall be determined by the Village Forester.

(2) Private Trees and Shrubs.

If the Village Forester determines with reasonable certainty upon inspection or examination that a nuisance tree or shrub exists in or upon any private premises within the Village, he/she shall notify the owner of such premises, or his agent, in writing that said nuisance tree or shrub must be treated, trimmed, removed, or otherwise abated. Said written notice shall specify the nature and exact location of the nuisance, the manner in which the nuisance shall be abated, and the time frame for abating such nuisance. Nuisance trees or shrubs shall be abated within fifteen (15) days of issuance of said notice, unless the Village Forester determines that immediate action is necessary for the public safety.

(3) Abatement by the Village.

If the owner of such private premises, or his/her agent, refuses or neglects to comply with the terms of the written notice within the time specified, the Village Forester shall cause the public nuisance to be abated and shall report the expense thereof to the Village Treasurer who shall enter it as a charge against the property upon which the nuisance is located. No damage shall be awarded to the owner for the destruction of trees or shrubs pursuant to this section.

§ 483-07. Prohibited Acts Regarding Public Trees and Shrubs.

A. Injury to Public Trees and Shrubs Prohibited.

No person shall, without written permission from the Village Forester, do or cause to be done any of the following:

- (1) Secure, fasten, or run any rope, wire, sign, electrical installation or other device or material to, around or through any public tree or shrub except in an emergency such as a storm or accident.
- (2) Break, injure, mutilate, deface, kill, or destroy any public tree or shrub.
- (3) Top or make topping cuts on any public tree.
- (4) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub.
- (5) Excavate any ditch, tunnel, or trench, or lay any drive, sidewalk or other impermeable surface within the tree protection zone of any public tree or shrub.
- (6) Erect, alter, repair, raze, or excavate within the tree protection zone of any public tree or shrub without placing suitable guards approved by the Village Forester around such trees and shrubs which may be injured by such operations.
- (7) Remove any guard, stake, or other device or material intended for the protection or support of any public tree or shrub.
- (8) Place any earth fill, rock, trash, or other material within the tree protection zone of any public tree or shrub which may compact or prevent the entry of air and water to the root zone.

B. Clear Vision Triangle.

No new tree, shrub, hedge or other growth exceeding thirty (30) inches in height above street grade shall be permitted in any clear-vision triangle within the Village. Existing trees and shrubs that are located in a clear vision triangle shall be kept trimmed so that the lowest branches projecting over the public street or right-of-way provide a clearance of not less than 16 feet.

C. Obstruction of Signs, Signals, Travel.

All public and private trees and shrubs located adjacent to the public way shall be kept trimmed so that the lowest projecting branches provide a clearance height of not less than sixteen (16) feet above the travel portion of a public street, and not less than ten (10) feet above the public sidewalk. The Village Forester may waive the provisions of this section for newly planted or naturally low-profile trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light, obstruct the view of any traffic sign or signal, or endanger public safety.

D. Violations.

Any public or private tree or shrub, or part thereof, found to be in violation of the provisions of Section § 483-07 B. and C. of this Ordinance shall be declared a public nuisance and shall be subject to abatement as set forth in Section § 483-06 C. of this ordinance.

- (1) A property owner receiving notice to abate a public nuisance as specified in this section of the Ordinance shall have the right to contest such taking by the Village Forester and shall have such rights as are provided in Chapter 32 of the Wisconsin Statutes relating to the “taking of real property.”

§ 483-08. Public Tree and Shrub Removal Requirements.

A. Permit Required.

No person shall remove any public tree or shrub, or cause such work to be done. All public tree and shrub removal work shall be performed by the Village Forester or his/her designee. Persons who wish to have a public tree or shrub removed shall submit a Public Tree and Shrub Removal Permit Application to the Village Forester.

B. Public Tree or Shrub Removal Application and Approval Process.

Any person desiring to remove any public tree or shrub shall submit a completed Public Tree and Shrub Removal Permit Application to the Village Forester. Such application shall specify the location and description of the public tree or shrub to be removed. Public Tree and Shrub Removal Permit Applications shall be submitted to the Village Public Works Committee for recommendation and to the Village of Plover Board for approval. The Public Works Committee and Village Board will take into account safety, health, and

welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character and aesthetic quality of the area in which the public tree or shrub is located, and the soil conditions and physiological needs of the tree or shrub, as well as a recommendation from the Village Forester or his/her designee, as part of their consideration for approval or denial. If approved by the Village Board, the Village Forester shall issue a Public Tree and Shrub Removal Permit to the applicant.

C. Public Tree or Shrub Removal Permit Compliance.

Public Tree and Shrub Removal Permit Applications shall be issued by the Village Forester on the standard form for this purpose and shall include a description of the work to be done and shall specify the genus, species, variety, size, and location of trees or shrubs to be removed. All public tree and shrub removal work shall be performed by Public Works Department or by a company hired by the Public Works Department. If the public tree(s) or shrub(s) identified in the application are deemed a public nuisance, the Village Forester will have such tree(s) or shrub(s) removed at no cost to the applicant. If public tree(s) or shrub(s) identified in the application are not deemed a public nuisance, the entire cost of all public tree and/or shrub removal work performed shall be billed to applicant. Such work shall include, but not be limited to tree removal and stump removal/grinding and site restoration.

D. Permit Fee. A non-refundable Public Tree or Shrub Removal Application permit fee of \$25.00 shall be paid to the Village of Plover. The applicant shall also pay \$250.00 for each public tree or shrub to be removed, if such removal is approved by the Village Board. All fees paid to the Village shall be placed in a tree replacement fund to be used by the Village Forester to plant or maintain public trees or shrubs elsewhere in the Village.

§ 483-09. Planting, Maintenance, and Protection of Public Trees and Shrubs.

A. Planting, Maintenance, and Protection of Public Trees and Shrubs.

No person shall remove or plant any tree or shrub on public property, or cause such work to be done. All public tree and shrub planting and removal work shall be performed by the Village Forester or his/her designee.

B. Arboricultural Specifications and Standards.

The following specifications and standards are hereby established for the planting, pruning, and maintenance of all public trees and shrubs within the city.

(1) Planting.

- (a) No public tree shall hereafter be planted which is less than one and one half (1½) inches in diameter at six (6) inches above the ground.
- (b) No public tree shall be planted closer than three (3) feet from the curb line or the street edge of the sidewalk.

- (c) No public tree shall be planted less than ten (10) feet from any driveway or fire hydrant, or within the designated clear-vision triangle.
- (d) All street trees hereafter planted shall be spaced not less than thirty (30) feet apart except that a tree planted for the purpose of future replacement of an existing declining tree may be planted less than thirty (30) feet from the declining tree. The actual spacing, location and alignment of public trees shall be determined by the Village Forester based on the mature size of the species to be planted and specific site limitations.
- (e) The following shall not be planted in the public areas and public ways of the Village: any species of the genus Populus, any Ailanthus, Box Elder, Silver Maple, Willow, White Bark Birch, Black Locust, Siberian Elm, or such other species that shall be determined to be unsuitable for planting.
- (f) No tree known to grow to a height of greater than 25' may be planted under overhead utility lines.

(2) Pruning.

- (a) All pruning of public trees and shrubs shall conform with the standards set forth in ANSI A300 (Part 1) - 2008 or the most recent version thereof as adopted in Section § 483-04 of this Ordinance.
- (b) To aid in the prevention and transmission of oak wilt (a disease known to be within the Plover area) no pruning of oaks shall occur on public or private property between April 1 and August 1

(3) Maintenance and Protection.

Injecting, fertilizing, bracing, cabling or other arboricultural operations or treatments shall be performed in a neat and professional manner according to accepted arboricultural standards and in compliance with all laws governing the use of pesticides.

§ 483-10. Tree/Shrub Protection During Construction in a Public Area or Public Way.

A. Definitions.

“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.

B. Requirements.

Any person/company proposing to perform construction work in a public area or public way shall meet with the Village Forester to determine what, if any, tree/shrub protection measures are necessary. Such person 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 public tree/shrub protection is necessary, he/she shall provide written orders identifying the required protection measures. All costs associated with required tree/shrub protection measures shall be the responsibility of the person/company undertaking such construction.

§ 483-11. Emergency Provisions.

- A. If an emergency occurs that results in trees or shrubs affecting the health, safety or welfare of persons or results in the endangerment of property, the affected property owner or individual shall attempt to contact the Village of Plover Public Works Department (715-345-5257) or Police Department (715-345-5255) to relate the emergency and explain the corrective measures that are necessary. If unable to contact the Public Works Department or Police Department, the affected property owner may take whatever immediate action is necessary to relieve the emergency, however, the Public Works Manager shall be notified as soon as is reasonably possible after the emergency has been abated.

§ 483-12. Appeals.

- B. A person/company/property owner 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 meeting with the Village Forester and Village Administrator. The Village Administrator shall schedule such a meeting within ten (10) days of receiving the request. If the person objecting to the order wishes to further appeal the results of the meeting, that person may, within ten (10) days of the meeting, make a written request to appeal the order by requesting consideration by the Public Works Committee. The Public Works Committee shall meet to hear the appeal within fifteen (15) days of receiving the appeal. The Public Works Committee shall notify the appellant of its decision in writing within ten (10) days of the concluded meeting. The Public Works 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 Public Works Committee shall become final, after it is reviewed by the Village Board.

§ 483-13. Penalties.

- A. Every person convicted of a violation of this Ordinance 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.