



# Village of Niles

"Where People Count"

## Office of the Village Manager

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## MEMORANDUM

From: Hadley Skeffington-Vos, Assistant Village Manager  
Re: Proposed Tree Ordinance  
Date: Wednesday June 11, 2014

To Whom It May Concern,

This Tree Ordinance was drafted by the Environmental Practices Committee (EPC). It provides for the care, maintenance and preservation of the urban forest in Niles. It builds from the 1965 Tree Ordinance currently in the Village of Niles Ordinances to include new language on alteration of vegetation on private and public property, diseased/infected trees, tree permitting process, and penalties.

The Environmental Practices Committee has been working on this ordinance over a year. There are already 175 cities in Illinois that have a Tree Ordinance and are designated as a Tree City USA.

Professional input was provided by Reinee Hildebrandt from IDNR and Mark Duntelman, former President of the International Arborists Association. Community Development, Legal and Public Services departments were involved in the drafting of the ordinance. Public comment from Information Consideration, Board and EPC meetings was incorporated.

It is the hope of the EPC to present the draft Tree Ordinance at the June 24<sup>th</sup> Village Board Meeting. That agenda will be public and viewable online as well as at Village Hall on Friday June 20<sup>th</sup>.

Thank you,

Hadley Skeffington-Vos  
Assistant Village Manager  
Village of Niles



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## ORDINANCE 2014-

### AN ORDINANCE AMENDING CHAPTER 106 VEGETATION, ARTICLES I. IN GENERAL AND ARTICLE II. TREES AND SHRUBS AND ADDING APPENDIX E FEE SCHEDULE IN THE CODE OF ORDINANCES, VILLAGE OF NILES

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Niles, Cook County, Illinois, as follows:

**SECTION 1:** Chapter 106 Vegetation, Articles I. In General and Article II. Trees and Shrubs shall be amended and Appendix E Fee Schedule shall be added as follows:

#### ARTICLE I. IN GENERAL

##### **Sec. 106-1. Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Arboricultural Specifications and Standards of Practice Manual* is prepared and maintained by the Village forester containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants.

*DBH* is the diameter in inches of a tree trunk measured at a height of four and one-half (4.5) feet above ground. (DBH= Diameter Breast Height)

*Diameter* is the width of a circular or cylindrical object; a straight line passing through the center of a circle or sphere and meeting the circumference or surface at each end.

*Drip line* is an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

*Park trees* are defined as trees, shrubs, and all other woody vegetation in public parks having individual names and all areas owned by the Village or to which the public has free access as a park.

*Protected Root Zone* means the drip line of any tree.

*Private property* is any property not owned by the Village of Niles.

*Public property* means all property held in the name of the Village.

*Restricted Tree List is a list of tree species, prepared and maintained by the Village forester, not to be planted in the Village of Niles.*

*Street or highway means the entire width between property lines of every way or place whatsoever within the Village when any part thereof is open to the use of the public for any mode of traffic.*

*Street trees are 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 in the Village.*

*Trees are defined as a self-supporting woody plant typically having a well-defined stem or multistems, developing many branches or a defined crown.*

*Shrub means any woody vegetation with several stems; without a trunk.*

*Village means the Village of Niles.*

**Sec. 106-2. Village forester's role in Village beautification.**

The Village forester shall be a certified arborist. The Village forester will be responsible for developing and maintaining the Arboricultural Specifications and Standards of Practice Manual and a Restricted Tree List. The Village forester will maintain a list of trees registered by residents for new tree plantings, replacements and removals.

**Sec. 106-3. Role of civic groups in Village beautification.**

The Village forester will encourage civic groups, such as the Village garden club, to adopt a plot of public land and, under his/her supervision, develop and maintain it.

**Sec. 106-4. Restricted plantings in the Village.**

It shall be a nuisance to plant any bush variety or tree within the Village that is referenced in the Restricted Tree List, created and maintained by the Village forester.

**Sec. 106-5. Effect of penalty on recovery costs.**

Imposition of any penalty for any violation of this Chapter shall not be construed as a waiver of the right of the Village to collect any costs incurred in the removal of any encumbrance or nuisance.

**Sec. 106-6. Tree removal permit application**

a. Requirement

Any person wishing to remove a tree larger than 10 inches DBH must obtain from the Community Development Department a permit for which no fee shall be charged, and nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

b. Issuance

(1) A tree removal permit shall expire and become null and void if work authorized is not commenced within one (1) year from the date of the permit or if

such work when commenced is suspended or abandoned at any time for a period of one (1) year.

(2) If work has commenced and the tree removal permit becomes null and void or expires because of lack of progress or abandonment, a new permit for the proposed tree removal activity shall be obtained before proceeding with further work.

**Sec 106-7. Emergencies**

In the event of an emergency, it shall be lawful to proceed with the cutting or removal of a tree to the extent necessary to avoid immediate danger or hazard. In such event the person causing the cutting shall report the action taken to the Village forester within forty-eight (48) hours thereof.

**Sec. 106-8. Penalties**

Any person who violates any provision of this Chapter or who fails to comply with any notice, directive or order issued pursuant to the provisions of this Chapter, upon being found guilty of violation, shall be subject to a fine as specified in Appendix E of the Village Code for each separate offense, and each day during which any violation of the provisions of the Chapter shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Chapter, the injury, mutilation, or death of a public tree, shrub, or other plant is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation.

**Sec. 106-9. Appeals**

Any action or decision by the Village forester pertaining to the enforcement of this article may be appealed to the Village manager or designee. An appeal must be filed in writing within 30 days after the decision of the Village forester. The decision of the Village manager or designee shall be final and will be mailed to the applicant and the Director of Community Development.

**ARTICLE II. TREES**

**Sec. 106-31. Public tree care.**

The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to assure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Arboricultural Specifications and Standards of Practice Manual will serve as a guide for tree care.

**Sec. 106-32. Abuse or mutilation on public property.**

a) No person shall willfully damage, cut, carve, transplant or remove a tree, attach any notice, sign or publication, or any rope, wire, nails, or other equipment to any tree, allow any gaseous liquid or solid substance which is harmful to trees to come in contact with them; nor set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree. The Arboricultural Specifications and Standard of Practice Manual will serve as a guide for tree care.

b) It shall be unlawful practice for any person, firm, and or Village department to top any street tree, park tree or other tree on public or private property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) 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 shall be removed per direction of the Village forester. Certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Village forester.

Any exception to sec. 106-32 (b) will be granted by the Village forester by permit.

c) Violation of this section is subject to fines as referenced in Appendix E of the Village Code.

**Sec. 106-33. Alteration of vegetation on public property.**

It is unlawful to plant, remove or cut down any tree or shrub on public property. Any exception to sec. 106-33 will be granted by the Village forester by permit.

**Sec. 106-34. Private vegetation encroaching on public property.**

It is unlawful for any person to cause, allow, create, or maintain any obstruction or encroachment on public property. Trees and shrubs or the limbs or branches thereof or vines which overhang any sidewalk, street, or other public property as to impede or interfere with public access, safety, travel or traffic shall be trimmed by the owner of the property in which such vegetation grows in a manner which eliminates the obstruction.

The Village shall have the right to prune any tree or shrub on private property when it interferes with public access, safety, the proper spread of light along the street from a street light or interferes with visibility of street intersections or any traffic control or sign and charge the cost to the owners if they refuse to do it themselves.

**Sec. 106-35. Notice; abatement required.**

The Director of Community Development shall give the owner of the obstructing vegetation written notice of the existence of the obstruction, requiring correction, removal and disposition of the obstructing material within 2530 days. Service of notice, where feasible, shall be personal service. Service to nonresident property owners shall be registered mail, addressed to the owner's last known address.

**Sec. 106-36. Development and maintenance of Village trees and shrubs.**

It is the duty of the Village forester to plot, identify, and record all trees on public land. The Department of Public Services shall maintain a plan for optimal development, maintenance, and replacement of trees and shrubs on public property. This plan will include identification of trees by species.

**Sec. 106-37. Registering of trees on private property.**

The Village requests that property owners register all new trees planted on private property with the Village forester within fourteen (14) days of planting. The Village requests that no trees listed on the Restricted Trees List should be planted in the Village.

**Sec. 106-38. Planting restrictions for public and private property.**

a) For public property: approved trees shall be planted according to the Arboricultural Specifications and Standards of Practice Manual. No street tree or shrub shall be planted closer than 10 feet of any fire hydrant.

b) Upon registering new trees on private property, the Village forester may approve planting distances, upon request of the private property owner, based on the species and variety of tree and topographic factors, i.e., adjacent land use and traffic stress. No tree or shrub shall be planted that inhibits pedestrian or vehicular safety.

**Sec. 106-39. Removal of trees on private property.**

The following tree removal criteria and requirements shall be put into place to determine the responsibilities to maintaining the health and integrity of the urban forest.

A tree removal permit shall be required for the removal of any tree in the Village 10 inches DBH or greater. It shall be unlawful for any person to remove any such tree without having first obtained such permit. In the case of a multi-stemmed tree, the DBH is measured using the largest trunk of a tree. No permit shall be granted unless the work is performed by a bonded and Village licensed tree care company.

**Sec. 106-40. Construction activity.**

a) The NRCS Illinois Urban Manual: Tree and Forest Ecosystem Preservation, Tree Protection, and Tree Protection-Augering will serve as guides for tree care during construction.

b) The general contractor shall be responsible for the construction, erection, and maintenance of temporary fencing in accordance with the conditions of the building permit around tree preservation areas. Violation will result in the stoppage of all work until corrections have been made to the satisfaction of the Village forester.

**Sec. 106-41. Rehabilitation.**

It is the responsibility of the owner of the property being rehabilitated, improved, or altered in any manner, to have all trees on Village property adequately protected from mechanical damage or damage during work. The NRCS Illinois Urban Manual: Tree and Forest Ecosystem Preservation, Tree Protection, and Tree Protection-Augering will serve as guides for tree care during rehabilitation. Damage repair cost or replacement will be ascertained by the Village forester and levied according to this Chapter.

**Sec. 106-42. Removal of dead/diseased/infected trees.**

a) Control and eradication. Any tree found to be dead, diseased or infected by the Village forester, located on any premises in the Village, shall be removed within 30 days following service of the notice for which provision is made herein. Extensions may be granted by the Village forester.

b) If the owner of private property neglects or refuses to remove any dead, diseased and/or infected tree species, as ascertained by the Village forester, then, in such case, the Village manager or designee is hereby authorized to go upon such private property and either remove such trees or have such trees removed. With the permission of the property owner the Village Manager or designee shall enter private property at reasonable times in order to carry out his or her duties as provided in this Section.

c) Notice. If any tree growing on any premises in the Village is found to be dead, diseased or infected, the Village manager or designee shall serve a notice upon the owner or occupant of the premises on which the said tree is growing to remove the said tree within 30 days. Such notice shall contain the following information:

- (1) The identity of the property, by common description;
- (2) The tree affected;
- (3) A notice that it is unlawful to permit such infected tree to remain on the property;
- (4) A request for the removal of the tree;
- (5) A notice that if the tree is not removed within 30 days, the Village may make necessary arrangements to remove the same and charge the cost thereof to the owner or occupant of the premises; and
- (6) A notice that if the cost and expense incurred in the removal of such infected tree is not paid, then within 30 days after incurring such cost and expense a notice of lien on the real estate affected will be filed in the office of the recorder of deeds, or registrar of titles, whichever is applicable, of Cook County, Illinois.

d) If the owner of private property neglects or refuses to remove any diseased and/or insect infected tree, as ascertained by the Village forester, then, in such case, the Village is hereby authorized to go upon such private property and either remove such trees or have such trees removed. Before any Village employee may enter private property without permission by the owner, a determination of rightful entry must be made pursuant to the administrative hearing procedures found in Chapter 2 Administration, Article VII Office of Administrative Adjudication, Division 2 Procedures.

**Sec. 106-43 Nonpayment of removal cost; lien created; notice.**

The Village is hereby authorized to collect from the property owner the reasonable cost of removal of any and all diseased and/or insect infected trees so removed from the private property.

If the owner of the private property shall not pay the cost of removal, then the cost of removal of the trees shall become a lien upon the real estate as provided in this article.

The cost of such tree removal shall not be a lien upon the real estate affected unless a notice shall be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, such notice to be delivered or sent not less than 30 days prior to the removal of the tree or trees located thereon. The notice shall contain the substance of section 106-40, and of any

ordinance of the municipality implementing its provisions, and identify the property, by common description, and the trees affected.

**APPENDIX E  
PENALTIES SCHEDULE**

<i>Description</i>	<i>Amount</i>	<i>Section of This Code</i>
*	*	*
<b><u>Chapter 106. Vegetation</u></b>		
<i>Article I. In General.</i>		
Penalties	50.00 -1500.00	106-8
<i>Article II. Trees.</i>		
Abuse or mutilation	100.00 per caliper inch	106-32

**SECTION 2:** The provisions of this Ordinance are hereby declared to be severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 3:** That all ordinances or parts of ordinances in conflict are hereby repealed to the extent of any such conflict.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

**PASSED:** This 24<sup>th</sup> day of June, 2014

**YEAS:**

**NAYS:**

**ABSENT:**

**ABSTAIN:**

**APPROVED** by me this 24<sup>th</sup> day of June, 2014.

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President of the Village of Niles  
Cook County, Illinois

**ATTESTED AND FILED** in my office this 24<sup>th</sup> day of June, 2014, and published in pamphlet form as provided by law in the Village of Niles, Illinois.

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Village Clerk