

ORDINANCE #2023 - 11

AN ORDINANCE REPEALING AND RECREATING SECTION 331-2 OF THE CODE OF ORDINANCES OF THE VILLAGE OF WILLIAMS BAY REGARDING PRESERVATION OF TREES

WHEREAS, a duly noticed public meeting was held by the Building, Zoning & Ordinances Committee on July 5, 2023 regarding repealing and recreating Sec. 331-2 of the Code of Ordinances to strengthen the existing tree removal requirement and Sec. 331-4 of the Code of Ordinances to address penalties for the violation of the provisions of Chapter 331; and

WHEREAS, after said public meeting, the Building, Zoning & Ordinances Committee having recommended to the Village Board to repeal and recreate Secs. 331-2 and 331-4; and

WHEREAS, the Village Board having determined that it is appropriate to adopt such recreation of Section 331-2 regarding Village Code Tree Replacement to be more stringent in protecting existing trees and the natural environment of the Village as a whole, but not the proposed recreation of Section 331-4.

NOW, THEREFORE, the Village Board of the Village of Williams Bay do hereby ordain as follows:

Section 1. § 331-2 of the Code of Ordinances of the Village of Williams Bay is hereby repealed and recreated to read as follows:

§ 331-2 Tree Preservation

A. Purpose. The purpose of this section is to:

- (1) Promote the preservation and planting of trees in order to preserve the Village's character as a naturally wooded community.
- (2) Protect the waters of the state and Geneva Lake.
- (3) Preserve and enhance property values within the village.
- (4) Generally, protect, promote, and enhance the quality of life, public health and safety and general welfare of the people in the village.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUILDING ACTIVITY AREA

Upon issuance and for the duration of a building permit, the entire minimum area necessary for the construction of a principal structure, permitted accessory structures, driveway, utility installation or subsequent permitted additions to each. This area shall be defined by the Tree Commissioner at the time of the issuance of the tree removal permit and shall be the smallest possible area that permits the construction of the permitted building or improvement.

REPLACEMENT TREE

A tree of at least 2 inches diameter measured at a point on the tree four feet above grade level that is maintained in a healthy condition and survives one year after planting. This tree shall be of a similar or higher quality than the tree it is replacing.

SHORELAND AREA

A strip of land 35 feet wide inland from Geneva Lake's ordinary high water mark (864.30 feet MSL elevation) or any navigable stream's ordinary high water mark.

STEEP SLOPE AREA

Any area of the Village where the slope exceeds 12%.

TREE PRESERVATION AREA

All areas in the Village in which trees are located.

DIAMETER AT BREAST HEIGHT (DBH)

Diameter at breast height, or DBH, is the standard for measuring trees. DBH refers to the tree diameter measured at 4.5 feet above the ground.

PROTECTED TREES

All trees six inches in diameter or larger measured at a point on the tree four feet above grade level shall be protected, and require a tree removal permit.

TREE TOPPING

Inappropriate pruning technique to remove the top portion of the tree's main leader(s), resulting in an overall reduction in the tree's height, size and potential health or life expectancy.

CLEAR CUTTING

The one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 30% of the woodlands on a property (or up to 100% for developments approved prior to the effective date of this chapter).

C. Vegetation removal prohibited in shoreland or steep slope areas.

- (1) Vegetation removal is prohibited in the shoreland area. Natural shrubbery and all trees shall be preserved in the shoreland area. Where removed as a part of a landscaping plan approved by the Tree Commissioner, they shall be replaced with other vegetation or replacement trees that are equally effective in retarding runoff, preventing erosion and preserving natural beauty. Any shoreland area vegetation removal shall be done during the growing season and shall be stabilized and revegetated or seeded within a two-week period of removal so as to produce a vegetative cover. The approval of a tree removal permit by the Tree Commissioner shall be required prior to natural shrubbery and tree removal in the shoreland area (See also requirements in Section 390-0822).
- (2) Vegetation removal prohibited in steep slope areas. Vegetation removal is prohibited in the Village where the slope exceeds 12%. As a part of a landscaping plan approved by the Tree Commissioner, vegetation may be removed, but shall be replaced with other vegetation or replacement trees that are equally effective in retarding runoff, preventing erosion and preserving natural beauty. Any steep slope vegetation removal shall be done during the growing season and shall be stabilized and revegetated or seeded within a two-week period of removal so to produce a vegetative cover. The approval of a tree removal permit by the Tree Commissioner shall be required prior to natural shrubbery and tree removal in the steep slope area (See also requirements in Section 390-0822).

D. Tree removal prohibited, exceptions and replacement trees.

- (1) Tree removal in tree preservation area prohibited. Except for the exceptions enumerated in the following Subsection D(2), it is prohibited to remove any protected tree or cause any trees to be removed from the tree preservation area of each lot.

- (a) No protected tree may be removed or trimmed that is located on public property, other than by the public property owner.
 - (b) No protected tree may be removed or trimmed that is located on the property of another unless written consent is first obtained from the property owner and a tree removal permit is obtained.
 - (c) No clear cutting of protected trees from a property shall be permitted
 - (d) No tree topping of a protected tree shall be permitted.
- (2) Exceptions. This section may not apply to the Village of Williams Bay Department of Public Works, or any planned Village project whether on public or private property, however, applicability shall be determined on a case by case basis and each project shall be reviewed by the Village before beginning. Under the following conditions, trees may be removed from the tree preservation area after obtaining a tree removal permit from the Village Tree Commissioner:
- (a) Removal of the tree will enhance the tree preservation area, the health of the remaining trees or be consistent with good arboricultural or silvicultural practices.
 - (b) Removal where said trees represent a danger to property or the health, safety or welfare of any person, or where said tree is dead, dying, diseased, severely damaged or injured to the extent that it is likely to die or become diseased.
 - (c) Trees removed from the building activity area which is minimally necessary to undertake any permitted use by right, accessory use or approved conditional use.
 - (d) The tree is an "invasive species" tree. An "invasive species" tree shall mean those species so designated on the most recent Wisconsin Department of Natural Resources published list of invasive tree species.
- (3) Replacement trees. Whenever possible and when in keeping with good arboricultural or silvicultural practices, replacement trees shall be planted for all removed trees that were not dead, dying, hazardous, or so unsafe, or unsound that they pose a safety risk to the general public. They may be planted in the tree preservation area or in the building activity area after the initial construction activities are completed. All replacement trees must be planted within 30 days of final grading and shall be determined as follows:
- (a) For a removed tree with a DBH of 6 to 20 inches: one replacement tree
 - (b) For a removed tree with a DBH of 20 to 30 inches: two replacement trees.
 - (c) For a removed tree with a DBH of 30 inches or larger: three replacement trees.

E. Tree protection during construction or land disturbance. Where any construction activity, land disturbance or tree removal is taking place on any property, or nearby any adjoining property, the following tree preservation methods and standards must be followed and must be shown in advance on any application for tree removal:

- (1) No construction activity, movement or placement of equipment or vehicles, placement of material or spoils or excess soil shall be placed inside the root zone and drip line of any protected tree on the property undergoing construction, as well as any adjoining property.
- (2) Temporary proactive fencing shall be installed outside of each protected tree's root zone and drip line, including trees on adjoining properties that may be affected. Said fencing shall remain in place during the entire time of construction, land disturbance or tree removal, and location shall be approved by the Village Engineer or Tree Commissioner.
- (3) Such other measures as may be required by the Village of Williams Bay depending on unique or unusual property conditions, tree locations or proposed construction activity or land disturbance.

F. Fee Required. Whenever in this section the planting of replacement trees is required, as an alternative, a fee in the amount of \$400 for each required replacement tree shall be made payable to the Friends of Kishwauketoe, Ltd. Any fee required shall be deposited with the Village Clerk prior to the tree permit being released. The Village Clerk will make a record of the fee, notify the Tree Commissioner, and forward the fee to the Friends of Kishwauketoe, Ltd. for the planting of replacement tree(s).

G. Public or utility easement tree trimming. Tree trimming on public rights-of-way, on public easements or on utility easement corridors in the Village shall be done in accordance with accepted arboricultural and silvicultural practices. Any person intending to conduct tree trimming on public rights-of-way, on public easements or on utility easement corridors must first obtain the written permission of the owner of the trees to be trimmed and the written permission of the Tree Commissioner prior to the commencement of such trimming.

H. Soil compaction and earthen stockpiling prohibited. It is prohibited to compact soil or stockpile earthen material within the dripline of any protected tree.

I. Management and care of removed trees or tree branches.

- (1) Removal. All trees and tree branches removed or trimmed pursuant to this section must be removed from the owner's property so as to not be allowed to rot or decay upon the property. Such removal is required with 10 days of cutting or trimming.
- (2) Exception for firewood. Trees and branches intended for use as firewood may be cut and neatly stacked upon lots or parcels of real estate in the Village.

J. Standards and appeals.

- (1) The Tree Commissioner shall comply with good arboricultural or silvicultural practices, and the requirements of all applicable ordinances of the Village of Williams Bay, in granting or denying any permission required of the Tree Commissioner in this section.
- (2) Any applicant objecting to any decision of the Tree Commissioner has the right to appeal the decision of the Tree Commissioner to the Village Board. The objecting person must deliver a written appeal to the Village Clerk during ordinary business hours, and within 30 days of the decision of the Tree Commissioner. The Village Clerk will place the appeal upon the agenda of the next available regularly

scheduled Village Board meeting, taking into consideration any notice requirements of any relevant open meetings law. The Village Board will review the decision of the Tree Commissioner. Within 60 days of the submission date of the appeal, the Village Board will either affirm the decision of the Tree Commissioner or direct the Tree Commissioner to issue such permit with such conditions as may be appropriate.

Section II. This ordinance shall take effect upon passage and publication as provided by law.

Approved by the Village Board of the Village of Williams Bay this 19th day of February, 2024.

VILLAGE OF WILLIAMS BAY

By: _____
William Duncan, President

Attest: _____
Tina Kolls, Clerk

First Reading: 9-18-2023
Second Reading: 1-15-2024
Date Adopted: 2-19-2024
Date Published: 2-29-2024