

## **CHAPTER 525: MAINTENANCE OF PUBLIC AND PRIVATE PROPERTY**

### **SECTION 525.010: PROHIBITED DISPOSITION OF REFUSE**

It shall be unlawful for any person to throw away or place any garbage, refuse or trash of any sort in or upon the streets, sidewalks or public places, or upon vacant lots or premises not his/her own within the Village. (Vil. Ord. No. 543-02; 4-16-02)

### **SECTION 525.020: DRAINAGE OF UNCLEAN LIQUIDS FROM PREMISES**

It shall be unlawful for any person to conduct into any street or other public place, or upon any vacant lot, from any kitchen, house or other structure or premises, any filth or unclean water or other liquid, or suffer such filth or unclean water or other liquid to escape into any public place or upon any vacant lot. (Vil. Ord. No. 543-02; 4-16-02)

### **SECTION 525.030: DUTY OF OWNERS, MANAGERS AND OCCUPANTS GENERALLY-NUISANCE**

No person who owns, manages or occupies any premises situated within the Village shall suffer to exist in or upon such premises any stagnant water, animal or vegetable matter, or other substance or liquid liable to become putrid, offensive or injurious to the health of any citizen or inhabitant of this Village ; and it shall be the duty of each such person to keep such premises free of any such stagnant water, animal and vegetable matter and other such substances and liquids and to keep such premises reasonably free of other refuse as in this Chapter provided, and to keep all underbrush cut and to suffer none to bloom or go to seed. Any condition found on any premises in violation of this or any other Section of this Chapter shall be deemed to be a nuisance.

**SECTION 525.040:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

**SECTION 525.050:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

**SECTION 525.060:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

### **SECTION 525.070: PURPOSE, INTENT AND DEFINITIONS**

For the purpose of this Ordinance the following terms, phrases, words and any derivations shall have the meaning given here in.

Comprehensive Tree Plan: shall mean a written document that guides the work of the Tree Board.

Diameter (DBH): the diameter of a tree at breast height, which shall be measured at 4 feet above ground.

Large Trees: are herein defined as those trees attaining a height of forty-five (45) feet or more with a mature spread of forty (40) feet or more.

Maintenance: any measure considered vital or beneficial to the proper care and cultivation of any tree, shrub, or other plant material, or considered necessary to abate nuisances. This includes pruning, irrigating, fertilizing, spraying or otherwise applying pesticides, staking, bracing, guying, cabling, wrapping, mulching, and insect and disease control, and any other horticultural practices performed as seen necessary to promote the general health of plant material.

Medium Trees: are herein defined as those trees attaining a height of thirty (30) to forty-five (45) feet with a mature spread of thirty (30) feet or more.

Mulch: nonliving organic materials customarily used in landscaping designed to retain moisture, stabilize soil temperatures, control weed growth, and retard erosion. Rubber mulch and rock are not an acceptable mulching material.

Park Trees: are herein defined as trees, shrubs, bushes, and all other woody vegetation in all areas owned by the Village and to which the public has free access as a park.

Shrubs: are herein defined as a self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten (10) feet in height at its maturity.

Small Trees: are herein defined as those trees attaining a height of twenty (20) to thirty (30) feet with a mature spread of twenty (20) feet or more.

Species: A unit or group of individual plants which bear a close resemblance to one another, - so much that this particular group will not be mistaken for another group combined with it in the same genus.

Street Trees: are herein 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 within the Village.

Urban Forest: shall mean the collection of shrubs, trees, vegetation and associated natural features that make up the Village tree canopy and its growing zone. (Vil. Ord. No. 706-16; 4-19-16)

**SECTION 525.080: ESTABLISHMENT OF A VILLAGE TREE BOARD**

- A. There is hereby created and established a Village Tree Board for the Town of Grantwood Village, Missouri which shall consist of five members, citizens and residents of this Village, who shall be appointed by the Chairman of the Board of Trustees with the approval of the Board.
- B. The term of the five persons to be appointed by the Chairman shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed in the same manner as described in Subsection A. for the unexpired portion of the term.
- C. Members of the Village Tree Board shall serve without compensation.

- D. The Public Works Commissioner shall serve as the liaison to the Tree Board. (Vil. Ord. No. 706-16; 4-19-16)

**SECTION 525.090: DUTIES, RESPONSIBILITIES AND AUTHORITY OF THE TREE BOARD**

- A. It shall be the responsibility of the Tree Board to study, investigate, council and develop and/or update annually a written plan for the care, preservation , pruning , planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The plan shall also include , but not be limited to, the goals and mission of the Tree Board; an inventory of reso urces, needed work, associated cost and time scheduled for work. A map or maps shall be included as needed . Such plan will be presented annually to the Board of Trustees and upon their acceptance and approval shall constitute the official Comprehensive Tree Plan for the Town of Grantwood Villa ge, Missouri. The Tree Board, when requested by the Board of Trustees , shall consider, inv estigate, make finding, report and recommend upon any special matter of question coming with the scope of its work.
- B. It shall be the responsibility of the Tree Board to establish educational and informational programs whereby the public may be notified of any matters pertaining to the Grantwood Village Tree Ordinance.
- C. It shall be the responsibility of the Tree Board to plan and conduct an annual Arbor Day Observance .
- D. It shall be the responsibility of the Tree Board to develop an Approved Tree List. This list is to be part of the Comprehensive Tree Plan. No other species outside those included in said list may be planted as street tree or ornamental trees on public property without the written consent of the Tree Board. In all cases, native tree species are to be preferred. In no case shall invasive trees or shrubs be allowed. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.095: OPERATIONS OF THE TREE BOARD**

- A. Within a reasonable amount of time after the appointment of the Tree Board, the Board shall meet and organize by the election of a chairman, vice-chairman , and standing committee chairs as needed.
- B. A majority of members shall constitute a quorum for the transaction of business.
- C. The Tree Board shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Board shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be kept. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.100: SPACING AND DISTANCE FROM CURBS AND UTILITIES**

- A. The spacing of Street Trees shall be in accordance with the three species size classes listed in the Definitions of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet on center; Medium Trees, 40 feet on center; and Large Trees, 50 feet on center; except by written permission of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)
- B. The distance trees may be planted from curbs or curb lines will be in accordance with the three species size classes listed in the Definitions of this ordinance, and no trees may be planted closer to any curb or curb line than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.
- C. No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than 10 feet of any fireplug.
- D. No Street Trees other than those species listed as Small Trees in the Definitions of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.110: PUBLIC TREE CARE**

- A. The Town of Grantwood Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- B. The Tree Board may remove or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with the regulations of this ordinance. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.120: TREE TOPPING**

It shall be unlawful as a normal practice for any person, or firm to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Other names for topping include "heading", "tipping", "hat-racking", and "rounding-over". Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.130: PRUNING, CORNER CLEARANCE**

Every owner of any tree overhanging any street or right-of-way with the Village shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8' ) above the surface of the street. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.140: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY**

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village , when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village. The Tree Board shall notify the Board of Trustees who will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have authority to remove such trees and charge the cost of removal to the owner. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.150: TREES AND SHRUBS ON PRIVATE PROPERTY**

- A. Every owner and tenant of property located within the Village abutting on a street, highway, public way or easement for a street shall:
1. Keep all grass and lawns in such easements neatly cut and trimmed.
  2. Keep all vegetation, shrubs, trees and bushes on such property or on any such easement trimmed and cut so that no part or branch thereof shall extend above any part of the paved portion of any street to a height of less than nine (9) feet, and part of which shall be a source of danger to persons or vehicles using such streets, highways, public ways and easements.
- B. Every owner and tenant of property which abuts intersecting streets in the Village shall keep all bushes, trees, shrubs and other vegetation trimmed to such a height that vehicles approaching such intersections shall have a clear sight vision of vehicles approaching at a right angle and for a reasonable safe distance, taking into account speed limits, the street conditions, the topography of the streets, the traffic controls and the contour of the adjacent lots.
- C. The St. Louis County Police Department is hereby charged with the enforcement of this Section. If, in the opinion of a Police Officer, any property owner or tenant shall be in violation of the terms of this Section , such property owner or tenant shall first be given written notice to correct such violation within (10) days and in the event such violation is not corrected within ten (10) days such property owner or tenant shall be issued a summons for violations of this Section. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.160:** Deleted (Vil. Ord. No. 716-17: 1-20-17)

**SECTION 525.170: REMOVAL OF STUMPS**

All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.180: ABUSE AND PROTECTION OF PUBLIC TREES AND SHRUBS**

- A. No person shall intentionally damage, cut, transplant, carve or remove any tree or shrub; attach any wire, rope, advertisements, nails, posters or other apparatus to any tree or shrub; allow any gaseous, liquid or solid substance which is deemed harmful to trees or shrubs to come into contact with them; or set fire or to permit any fire to bum when such fire or the heat thereof will injure any portion of the tree or shrub.
- B. 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 an appropriately substantial fence, frame or box. The Tree Protection Zone shall not be less than for (4) feet high and eight(8) feet square, or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (DBH) in inches, whichever being the greater. All building materials, dirt or other debris shall be kept outside the Tree Protection Zone.
- C. No person shall change natural drainage or attempt to excavate any ditches, tunnels , tranches or lay any drive within a radius of ten (10) feet from any public tree without first obtaining written permission from the Tree Board.
- D. No public utility company using any public street or other public property shall cut, remove, trim or burn or in any way interfere with any trees or shrubs on any public property without first obtaining written permission from the Village Tree Board for such work.
- E. No person shall use tree spurs or climbing spikes on trees located on Village owned property except with the specific written permission of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.190: INTERFERENCE WITH THE TREE BOARD**

It shall be unlawful for any person to prevent, delay, or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any Street Trees, Park Trees or trees on private grounds, as authorized in this ordinance. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.200: ARBORISTS LICENSE AND BOND**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning , treating, or removing Street or Park Trees within the Village without first applying for and procuring a Business License. In addition to the Business License requirements of Chapter 605 Business Licenses, of this Code, before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.210: REVIEW BY THE VILLAGE BOARD OF TRUSTEES**

The Board of Trustees shall have the right to review the conduct , acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Board of Trustees who may hear the matter and make a final decision. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.220:** Deleted (Vil. Ord. No. 716-17: 1-20-17)

**SECTION 525.230: CONFLICTS**

In the event any section clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid. Also , the terms of Ordinance shall supersede any provisions in the Municipal Code to the contrary. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.240: SEVERABILITY**

Should any section, subsection, sentence , clause , provision or part of this Chapter be held invalid for any reason, the remainder of this Chapter shall not be affected thereby, but shall remain in force and effect. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.241: THE MANAGEMENT OF VALUED TREES ON PRIVATE PROPERTY**

**Sections:**

- 525.241(a) Intent and Purpose .
- 525.241(b) Definitions .
- 525.241(c) Tree Protection and Preservation.
- 525.241(d) Violations.
- 525.241(e) Valued Tree Prune /Removal-Permit.
- 525.241(f) Reforestation.
- 525.241(g) Remedies.
- 525.241(h) Applicability.

- 525.241(i) Notification.
- 525.241(j) Appeal.
- 525.214(k) Sections Repealed.

**525.241(a) INTENT AND PURPOSE.**

This ordinance is adopted because, when the Town of Grantwood Village was incorporated it was located in a wooded and historic forest of native Missouri trees including oaks, hickories, cedars, walnuts, American elms, maples, and other species of trees. Early drawings of the land in 1858, when it was occupied by Ulysses S. Grant, the 18<sup>th</sup> President of the United States, show numerous mature trees, the size of which indicates that they were already 90-100 years old.

The development of an extensive forestry management plan indicates that invasive diseases, unprofessional management and a lack of understanding of the value of these trees have caused the bounty of mature native trees in the Town to be greatly diminished during the last decade. Clear cutting in neighboring developments has made the Town acutely aware of the possible future devastation of these healthy and valuable trees.

State and federal agencies believe that it is imperative that the remaining trees within the boundaries of the Town be protected and preserved; and, it is clearly evident that reforestation is necessary to preserve this national history and to provide for the health and welfare of the citizens of this Town by maintaining the scenic beauty, health and property values by preventing erosion of topsoil; minimizing airborne pollutants; maintaining the climatic balance and lowering the future public costs of installing and maintaining storm water drainage systems.

To this end it is reasonable to expect all property owners to maintain their trees in a satisfactory condition to maintain the Town of Grantwood Village as an exceptionally desirable place to live.

It is further found and declared that it is the intent of this ordinance to respect and recognize individual rights to develop, maintain, and enjoy private property to the fullest possible extent, consistent with the public interest, convenience, and necessity; and that it is necessary for the benefit of the entire village to enact this ordinance and regulate the unnecessary removal of valued trees in the village on private property.

Designation of a valued tree does not give or intend to give the public access to, or use or enjoyment of, privately owned property.

It is the intent of this chapter to establish regulations for the protection, removal and preservation of valued trees within the Town in order to retain as many trees as possible consistent with the purpose hereof and the reasonable economic enjoyment of private property.

**525.241(b) DEFINITIONS.**

Terms used in this chapter shall be defined as follows:

**(1) Diameter at Breast Height (DBH).** The diameter of the tree measured at forty-eight (48) inches above the natural grade.

**(2) Caliper measurement.** Diameter of the tree measured at six (6) inches above the ground or soil surface in the container.



**(3) Valued tree is any of the following:**

- (a) Any species of oak, hickory, walnut, hard maple, American Elm or cottonwood tree that has a DBH often (10) inches or more;
- (b) Any tree or stand of trees designated by resolution of the Board of Trustees to be of special historical value or of significant community benefit;
- (c) A stand of trees, the nature of which makes each dependent on the others for survival;
- (d) Any other tree with a DBH of sixteen (16) inches or more. Excludes species defined as undesirable by the Tree Board or Village Arborist.

**(4) Remove.** Cutting to the ground, complete extraction, or killing by spraying, girdling, burning, or any other means of a valued tree.

**(5) Prune.** Removal of more than one-fifth of the crown or existing foliage of the valued tree, or more than one quarter of the root system.

**(6) Valued Tree Pruning & Removal Permit.** States conditions for pruning to ensure that removal of existing foliage of the valued or protected tree complies with the Village Arboricultural Standards so that pruning enhances rather than impedes the future growth and sustainability of the tree. If pruning actually done is not in conformance with said conditions or without permit, it shall be deemed in violation of this ordinance. All regulated pruning and removal of protected or valued trees shall be supervised by a Licensed Professional or Certified Arborist. Homeowners can perform the pruning or removal when they agree to review and follow the Village Arboricultural Standards as part of the permit application process pursuant to Section 524.241(d).

**(7) Tree Board.** A board of citizens duly appointed by the Grantwood Village Board of Trustees in accordance with Section 525.080 of this Code.

**(8) Damage.** Damage to a valued tree shall mean: the removal of bark greater than 3" across, the breaking or splitting of the main trunk; obstructing the roots or trunk by covering with a heavy layer of mulch, debris or dirt in a manner that no longer allows the tree to gather oxygen or water properly; obstruction or redirection of an appropriate source of moisture; or the dislocation of the main trunk; or, any act compromising its health or structural integrity according to Village Arboricultural Standards, or to otherwise cause damage that is severely detrimental to its overall health and aesthetics.

**(9) Replacement Value.** Replacement Value for the purposes of this chapter shall be determined utilizing the most recent edition of the International Society of Arboriculture's Guide for Plant Appraisal.

**(10) Development Project.** Any exterior construction work associated with or requiring a building permit for any repair, remodeling, new building, building addition, building demolition, installation, site grading, excavation or site paving.

**(11) Tree Protection Plan.** A Tree Protection Plan is a written plan that is in compliance with Sections 525.241(c)(1) through 525.241(c)(5) and is designed to protect trees during construction or landscaping.

**(12) Mitigation Plan.** A written plan delineating what tree(s) is being proposed to replace the valued tree(s) that is to be removed; showing the exact location of the new planting and posting a deposit equal to half of the cost of the reforestation tree(s). Such a plan must be approved by the Village Arborist.

**(13) Village Arboricultural Standards:** A manual available to all property owners within the Village approved by the Board of Trustees containing standards for the planting, maintenance and removal of

trees, shrubs and other plant material on public and private lands within Grantwood Village.

**(14) Certified Arborist.** An arborist certified by the International Society of Arboriculture.

**(15) Village Arborist.** The Village Arborist is any certified arborist designated by the Tree Board.

**(16) Licensed Professional:** an individual trained in the art and science of planting, caring for, and maintaining individual trees, which stays current on the latest techniques and information through membership in local arborist associations and other professional organizations such as the International Society of Arboriculture (ISA), the Tree Care Industry Association (TCIA), or the American Society of Consulting Arborists (ASCA). A Licensed Professional is either a certified arborist or performs under the direction of a certified arborist, and represents a company that has obtained a business license from the Town of Grantwood Village.

**(17) Topping:** It shall be unlawful as a normal practice for any person, or firm to top any Street Tree, Park Tree, or other tree on public and private property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Other names for topping include "heading", "tipping", "hat-racking", and "rounding-over". Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Building Commissioner.

**(18) De-Rooting:** Removing more than one quarter of the root system.

#### **525:241(c) TREE PROTECTION AND PRESERVATION.**

**(1) Construction, Landscaping and Utility Improvement Projects:**

Any person who owns, controls, has custody or possession of any real property within the village shall use reasonable efforts to maintain and preserve all valued and protected trees located thereon in a state of good health, pursuant to the provisions of this Chapter.

(a) Any application for discretionary development approval for real property or for any other Development Project shall be accompanied by a signed statement by the property owner or authorized agent which discloses whether any valued trees exist on the property and describes on the plans associated with the application the location of each such tree, its species, trunk size and drip line area. In addition, the location of any tree within thirty (30) feet of the area proposed for construction that is within the public right-of-way shall be shown on the plans and identified by species.

(b) With regard to any tree required to be identified under section (a) above, (hereafter "valued tree"), any exterior construction work associated with any Development Project performed within a radius measured from the trunk center equal to ten times the diameter of the tree trunk measured at 4' above grade shall require the preparation and submittal of a Tree Protection Plan for review and approval by the Village Arborist prior to the issuance of any permit for a Development Project. The Tree Protection Plan shall be prepared by a certified arborist.

**(2) A Tree Protection Plan shall at a minimum include the following requirements:**

(a) Prior to the commencement of any Development Project, a suitable protective barrier shall be installed at the drip line of any protected tree which will be affected by the construction and shall prohibit the storage of any construction materials, equipment or other materials inside the fence. The drip line shall not be altered in any way so as to increase the encroachment of the construction.

(b) Prohibit excavation, grading, soil deposit, drainage and leveling within the drip line unless

approved by the Village Arborist.

(c) Prohibit disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials within the drip line or in drainage channels, swales or areas that may lead to the drip line.

(d) Prohibit the attachment of wires, signs, nails, screws or ropes to any protected tree.

(e) Utility service and irrigation lines shall be located outside the drip line when feasible.

(f) Include provision for the retention of the services of a certified arborist for periodic monitoring of the project site and the health of protected trees. The arborist shall be present a timeline of construction activities which will pose a potential threat to the health of the protected trees, whenever any work needs to be done within the drip line of such tree, and monitoring, consultation, and treatment during the post-construction recovery period.

(g) Includes other provisions as deemed necessary by the Village Arborist to preserve the protected tree and insure compliance with those provisions.

(h) Require the Village Tree Board be notified whenever any damage or injury occurs to a protected tree during construction so that proper treatment may be administered.

(i) Contain the signature of the property owner and building permit applicant.

**(3) Tree Protection Plan Review:** The Tree Protection Plan described in Section 525:241(c) shall be reviewed by the Village Arborist. If the plan is sufficient to prevent harm to protected trees from reasonably foreseeable construction activities, it shall be approved and related building permits otherwise complete shall issue. If the Village Arborist is unavailable to approve the request, the Chairman of the Board of Trustees may do so in absence of the Village Arborist.

**(4) Pruning and Removal of Protected Trees Requires a Permit:** The pruning of any protected tree in excess of one fifth of the tree's crown, or the total removal of a protected tree, shall require a permit as defined in Section 525.241(e).

**(5) Topping/De-rooting not allowed:** It shall be unlawful as a normal practice for any person, or firm to top or de-root any Street Tree, Park Tree, or other tree on public or private property. The practice includes the drastic removal of foliage or roots, or cutting back of large branches or roots in mature trees leaving large, open wounds which subjects the tree to disease and decay. Topping and de-rooting causes immediate injury to the tree and ultimately results in early failure or death of the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Building Commissioner.

**(6) Application.** This applies to: any owner, possessor or manager of property who removes or allows or instructs another top tree and to any other person, tree removal company or other entity that actually tops or participates in the topping of a valued tree. Any Licensed Professional found in violation of any provision of this ordinance, shall be issued a summons to appear in Municipal Court for a license revocation hearing.

#### **525:241(d) VIOLATIONS AND EXCEPTIONS.**

**(1) Permit Necessary.** It is unlawful for any person or entity to prune or remove, or cause to be removed

any valued or protected tree from any property in the village without obtaining a permit to do so. This applies to any owner, possessor or manager of property who prunes or removes, or allows or instructs another to prune or remove a valued or protected tree and to any other person, tree removal company or other entity that actually prunes or removes, or participates in the pruning or removal of the valued or protected tree.

**(2) Certified Arborist Required if Homeowner not Approved.** It is unlawful for any person or entity to prune or remove, or cause to be removed any valued or protected tree from any property in the village that is not a Licensed Professional or Certified Arborist, or supervised by a License Professional or Certified Arborist, or any homeowner that has been not approved to perform the pruning or removal through the permitting process by the Building Inspector.

**(3) Penalty to Business for not Having Permit.** Any firm without a valid business license issued by Grantwood Village that engages in pruning or removal of valued trees without an approved permit shall be issued a citation by the Village Police or Building Commissioner and shall be subject to license revocation by the Village Clerk.

**(4) Emergency Exception.** In case of emergency when a tree is hazardous or dangerous to life or property it may be pruned or removed by order of any member of the police or fire departments.

(a) Provided further, that any franchised public utility or representative of the village may remove or prune trees which interfere with the safe and efficient operation of the public service for which they are responsible, but only to the extent made necessary by such interference.

(b) Subject to the provisions of Section 525.24 l(b )(3), trees not covered by this Chapter may be removed without permit.

**(5) Penalty.** It is unlawful for any person or entity to cause damage to a protected tree compromising its health or structural integrity according to the Village Arboricultural Standards or to cause damage that is severely detrimental to its overall aesthetics or to remove fencing or other protective barrier surrounding a protected tree that was required as a condition of development on the property or to violate the terms of any Tree Protection Plan.

**(6) False Disclosure Unlawful.** Any violation of the terms of this Chapter or any permit issued under this Chapter is unlawful. Knowingly or negligently providing false or misleading information in response to any disclosure requirements of this Chapter or in application for any permit issued under this Chapter, shall constitute a violation of this Chapter and is unlawful

#### **525:241(e) VALUED TREE PRUNE/REMOVAL -- PERMIT.**

**(1) Permit required for each Tree.** Any person or entity desiring to remove or prune one or more valued trees shall apply to the Building Inspector for a permit for each tree. The application for a permit shall be made on forms provided for this purpose and shall state, among other things, the location of the tree to be removed or pruned by type and the reason for removal or pruning.

(a) The request for such a permit may only be made by the owner or owners of the property on which the trees are located or for pruning by an adjacent property owner of valued tree limbs extending onto that adjacent property, after notice of the application to the property owner where the valued tree is located.

(b) Valued tree permits shall carry a \$50 fee, payable upon application, and are valid for six months from date of issue. Extensions may be authorized by the Board of Trustees. No fee

shall be assessed if it is determined by the Building Commissioner that such tree is dead, dying or in such a state that the health of the tree cannot be improved by normal methods. The Building Commissioner may consult with the Village Arborist in deciding upon the condition of the tree.

(c) The applicant may submit an arborist's report with the permit application to show cause for removal or pruning. Pruning permit applications shall include pruning specifications prepared by a certified arborist. All regulated pruning and removal of protected or valued trees shall be supervised by a Licensed Professional or Certified Arborist. Homeowners can perform the pruning or removal when they agree to review and follow the Village Arboricultural Standards as part of the permit application process. A list of licensed tree firms is available from the Village.

**(2) Village Arborist-Duties.** The Village Arborist, at the request of the Building Commissioner if needed, shall review each application and shall consider and determine the following in rendering a decision:

(a) The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;

(b) The necessity to remove the tree in order to construct any proposed improvements to allow reasonable economic enjoyment of the property.

(c) The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters.

(d) The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and property value.

(e) The number of trees the particular parcel can adequately support according to good arboricultural practices.

**(3) Access.** In reviewing applications, the Village Arborist, Building Commissioner or Tree Board shall be provided access to visually inspect the trees and shall give priority to those based on hazard or danger of disease. The applicant will be contacted within two weeks regarding the review and approval of the permit application.

#### **525:241(1) REFORESTATION.**

**(1) Permits Required.** Permits for valued tree removal, removals without permits and causing major damage to valued trees shall require replanting conditions in accordance with the following guidelines:

**(2) Conforming with Replacement Conditions.** Trees removed under jurisdiction of a planning approval pursuant to 525:241(e) shall conform with the replacement conditions specified in the planning approval.

**(3) Valued Tree Replacement Standards.** Valued trees shall be replaced in accordance with the direction of the Board of Trustees or Village Arborist. Replacement direction shall include direction on the location and species of the replacement tree.

(a) All replacement plantings shall be performed according to the Village Arboricultural Standards.

(b) Replacement trees shall be of the desired species selected by the Board of Trustees or

Village Arborist. Tree replacement shall be of the same species when possible, but shall, in all cases be of comparable strength and structure, i.e. hardwoods shall be replaced with hardwoods. The use and maintenance of native tree species shall be prioritized. In order to protect the city's existing trees from disease, to ensure that the species and varieties of trees which are planted will grow and be healthy, will be resistant to storms, and do not present other undesirable effects, the Board of Trustees or Village Arborist will designate undesirable species that shall not be planted. The Board of Trustees or Village Arborist may, from time to time, modify, delete or add to these lists.

- (4) **Penalty.** Level of Replacement shall be within the discretion of the Building Commissioner, but shall not exceed the actual tree loss as determined by the Replacement Value and, in no case, shall exceed a civil penalty \$20,000 per tree.
- (5) Trees removed with a valid tree removal permit. For any tree that is removed by an owner or occupier of any residential property within the Town possessing a valid tree removal permit. such owner or occupier shall replace the removed tree with no less than two sapling trees of the same species of the removed tree. Such replacement trees shall in all cases be of the comparable strength and structure of the removed tree (i.e. A hardwood tree shall be replaced by a hardwood tree). Such replacement trees shall be no less than four inches in diameter. The approval of such replacement trees shall be made by either the Building Commissioner or the Village Arborist. either of whom shall the authority to allow for a different species of replacement tree if an exact replacement tree is not feasible.
- (6) Trees removed without a valid tree removal permit. In addition to any other penalties described in this Chapter. For any tree that is removed by an owner or occupier of any residential property within the Town without possessing a valid tree removal permit. such owner or occupier shall replace the removed tree with no less than four sapling trees of the same species of the removed tree. Such replacement trees shall in all cases be of the comparable strength and structure of the removed tree (i.e. A hardwood tree shall be replaced by a hardwood tree). Such replacement trees shall be no less than four inches in diameter. The approval of such replacement trees shall be made by either the Building Commissioner or the Village Arborist. either of whom shall the authority to allow for a different species of replacement tree if an exact replacement tree is not feasible.
  - (7) **Trees removed with a valid tree removal permit.** Tree replacement shall occur in such amounts so that the total caliper measurement of all replacement trees must equal one-half the total DBH measurement of removed Valued Trees.
  - (8) **Trees removed without a valid tree removal permit.** Tree replacement shall occur in such amounts so that the total caliper measurement of all replacement trees must equal the total DBH measurement of removed Valued Trees.
  - (9) **Permit Required.** In addition to the mitigation requirements of this subsection, penalties under Section 525.241(g) or other sanctions allowed by law may be imposed for removal of valued trees without a permit.
  - (10) **Exceptions Permitted.** Where the Building Commissioner determines that replanting is not feasible and/or appropriate, e.g., sufficient trees exist on site, the Board of Trustees may:
    - (a) require that replacement tree(s) be provided for planting on Village property, or
    - (b) require that a payment of equal value to the cost of the purchase and installation of the replacement tree(s) be made to the village tree planting fund, or
    - (c) place other conditions on the permit which are of equal value to the cost of the purchase and installation of the replacement tree(s).

(11) **Preservation of Damaged Trees.** Any person causing damage to a valued tree shall be required to take such steps as may be required by the Board of Trustees to assure the future vitality of the tree, including costs of treatment and/or construction of protective barriers, or if the Board of Trustees determines that the damage is so great that the tree is no longer reasonably sustainable, replacement of the damaged tree per subsection (3b), above.

(12) **Restored Trees Must be Healthy.** A tree planted as part of a reforestation settlement must remain healthy and viable for a period of three years following its planting; or, it must be replaced by a comparable tree upon notice from the Building Commissioner

#### **525.241(g) REMEDIES.**

(1) **Penalties for Willful Violation.** In addition to the Reforestation requirements described in Section 525:241(f), if the Board of Trustees finds that any person has violated this Chapter by participating in any willful act constituting a violation under any Section of 525.241, the Municipal Court may impose a fine of up to \$5,000 per participant, per tree for such illegal act.

**(2) Remedies.** In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the village for violation of this chapter:

(a) Any person or entity violating the provisions of this Chapter may be directed by the Building Commissioner to stop work and to prepare a mitigation plan to correct the violation and mitigate the damage in flicte d.

(b) Once the violation is corrected and mitigation implemented, the Building Commissioner shall allow construction to resume.

(c) The mitigation plan shall be filed and approved by the Village Arborist, agreed to in writing by the property owner(s) , and either implemented or guaranteed by the posting of adequate bond or other security.

(d) A mitigation plan shall include measures for protection of any remaining valued trees on the property and shall provide for replacement of each tree removed or damaged on the property or at locations approved by the Building Commissioner. The replacement ratio shall be determined by the Building Commissioner according to the provisions of this Chapter.

(e) If a violation occurs prior to development , or while an application for a building permit or discretionary development approval for the lot upon which the tree is located is pending , the Building Commissioner may condition the issuance of any building permit or approval upon the completion of a study, to be conducted by the village or consultant designated by the village, but in either case at the expense of the property owner, for the purpose of providing the village an opportunity to consider and determine appropriate mitigation measures for the tree removal and to insure measures are incorporated into any future development approvals for the property for the protection of any remaining valued trees in the area.

**(3) Administrative Citations may be issued** under Chapter 400.200.

#### **525.241(h) APPLICABILITY.**

**(1) Persons Affected.** The provisions of this chapter shall apply to all persons or entities, including The Town of Grantwood Village, or as specifically regulated under other provisions of the Grantwood Village Municipal Code.

**(2) Site Development Permit Required-When.** A person or entity who has received approval of a planning application which is also subject to the landscape regulations contained in Chapter 525 need only obtain a site development permit pursuant to Section 525.241(e) from the Building Commissioner for the remova land/or pruning of valued trees on the property proposed for development.

#### **525:241(i) NOTIFICATION.**

**(1) Building Commissioner Issues Permit.** A decision by the Building Commissioner shall be rendered for each permit application described in this Code.

**(2) Written Notice of Building Commissioner.** If a permit is approved, it will include conditions for the tree removal in accordance with Section 525:241(e). The Building Commissioner shall give written notification of the decision to the applicant and include therein a copy of Section 525:241(e).

**(3) Notice to Occupant.** If such real property is occupied by other than the owner, a like copy shall also be



left with the occupant. The failure of any property owner to receive the notice shall not affect the validity of any proceedings taken pursuant to the notice .

**525:241(j) APPEAL.**

**(1) Permit Application Appeals.** Any person may request the Board of Trustees to reconsider the decision of the Building Commissioner on a permit application made under this Chapter. Such a request shall be in writing, signed by the person making the request, state the reasons the request is made and be filed with the Board of Trustees not later than 5 p.m. of the tenth calendar day after the decision. The Board of Trustees shall review the request and render a decision.

**(2) Appeal Process.** Any person may appeal the reconsidered decision of the Board of Trustees by filing a de novo action with the Circuit Court of St. Louis County, Missouri.

**(3) Limitations of Penalties.** Notwithstanding the limitations set forth in that section regarding Civil Penalties, Civil Penalties under this Chapter shall be limited to the amounts allowed under law.

**525:241(k) SECTIONS REPEALED.**

Sections 525.160 and 525.220 of the Town Code are hereby repealed by the enactment and approval of this ordinance.