

CHAPTER 95: TREES AND SHRUBS

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GENERAL PROVISIONS

§95.01 PLANTING AND REMOVAL PERMITS REQUIRED.

- (A) *Planting permit.* No person shall plant any tree or shrub in any street, parkway or other public place without first having secured a permit therefor. Application for such permit shall be made to the Village Office, and shall be referred by him to the Board of Trustees for approval. ('77 Code, §95.15(a))
- (B) *Removal permit.* No person shall remove or cut down any tree or shrub in any street, parkway or other public place without having first secured a permit therefor. Application for such permit shall be made to the Village Office, and shall be referred by him to the Board of Trustees for approval. ('77 Code §95.15(b)) Penalty, see §10.99

§95.02 INJURING TREES OR SHRUBS PROHIBITED.

No person shall injure any tree or shrub planted in any street, parkway or public place. ('77 Code, §95.15(c)) Penalty, see §10.99

§95.03 ADVERTISEMENTS ON TREES OR SHRUBS PROHIBITED.

No person shall attach any sign, advertisement or notice to any tree or shrub in any street, parkway or public place. ('77 Code, §95.15(d)) Penalty, see §10.99

§95.04 TRIMMING OF DANGEROUS TREES.

Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises on which such tree or shrub grows so that the obstruction shall cease. Any limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which the tree grows or stands. ('77 Code, §95.15(e)) Penalty, see §10.99

§95.05 ATTACHMENT OF WIRES OR ROPES TO TREES; PERMISSION REQUIRED; SPECIFICATIONS.

No person shall attach any wire or rope to any tree without the permission of the Board of Trustees. Any person granted the right to maintain poles and wires in the streets, alleys or other public places in the Village shall in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Village, to insure that injury shall not be done to the poles, wires, shrubs and trees by contact with wires. ('77 Code, §95.15(t)) Penalty, see §10.99

TREE PRESERVATION

§95.15 INTENT AND PURPOSE.

- (A) The purpose of this subchapter is to conserve and protect the land, vegetation and other natural resources of Deer Park, while allowing for reasonable improvement of the land and to take necessary measures to preserve and protect trees and other vegetation during all phases of

construction of improvements or regrading of land. This subchapter is intended to have the effect of strongly encouraging the configuration of buildings and other site improvements which retains the natural features of the site including its trees, without rendering the site unbuildable. Tree removal for convenience or to accommodate non-essential functions shall not be permitted except as specifically set forth herein.

- (B) The preservation of existing trees in the Village is intended to accomplish, where possible, the following objectives:
- (1) To preserve trees as an important public resource enhancing the quality of life and general welfare of the village and enhancing its unique character and physical, historical, and aesthetic environment;
 - (2) To preserve the essential character of those areas throughout the community which are heavily wooded and in a natural state;
 - (3) To enhance and preserve the air quality of the Village through the filtering effect of trees on air pollutants;
 - (4) To reduce noise within the Village through the baffle and barrier effect of trees on the spread of noise;
 - (5) To reduce topsoil erosion through the soil retention effect of the tree roots;
 - (6) To preserve and enhance nesting areas for birds and other wildlife which assist in the control of insects;
 - (7) To reduce storm water runoff and the costs associated with runoff through the water-retaining characteristics of existing woodlands and replenish ground water supplies; and
 - (8) To protect and increase property values.

§95.16 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply:

CALIPER. A measurement of a tree equal to the diameter of its trunk measured six inches above natural grade for trees having calipers less than or equal to four inches in diameter; and measured 12 inches above grade for tree calipers greater than four inches in diameter. For purposes of this subchapter, caliper shall be the measure of all new trees planted pursuant to the provisions hereof.

CRITICAL ROOT ZONE. The area inscribed by an imaginary line on the ground beneath a tree having its center point at the center of the trunk of the tree and having a radius equal to one foot for every inch of DBH and shall extend five feet below surface ground level.

DEVELOPMENT. The performance of any building or mining operation, the making of any material change in the use or size of any structure or land, demolition of a structure and removal of trees, the division of land into two or more parcels, and the creation or termination of rights or

access or riparian rights.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree measured at four and one-half feet above the existing grade at the base of the tree. **DBH** shall be the measure of all pre-existing trees on a site for purposes of this subchapter.

FREE-STANDING TREE. An existing tree with a DBH of six inches or greater that is located by itself outside of any woodlands on a site.

REMOVE or REMOVAL. The causing or accomplishing of the actual physical removal of a tree, or the effective removal through severe pruning, damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a tree.

SITE WORK. The making of any material change in the use or appearance of any structure or land, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights, as well as demolition of a structure or removal of trees and other vegetation. Also, any clearing, excavating, grading, trenching, filing or similar land-disturbing activities.

SWALE. A topographical indentation which channels periodic water runoff.

TREE PRESERVATION AREA. That area of a lot or parcel of land within which all trees and shrubs shall be protected.

TREE PRESERVATION PLAN. A written plan having text and/or graphic illustrations indicating the methods which are to be used to preserve existing trees during construction.

TREE PRESERVATION SUPERVISOR. A member of the petitioner's development team who is a professional landscape architect or arborist with training in tree preservation techniques. This person shall take responsibility for ensuring the protection of existing trees designated for preservation during construction.

TREE REMOVAL PERMIT. The permit required by the tree preservation regulations to be issued in order to remove any tree within the corporate limits of the Village.

TREE SPADE TRUCK A truck with a cone-shaped appendage specifically designed for digging established trees for the purpose of transplanting.

TREE SURVEY. A written plan having text and/or graphics indicating the location, size, species and condition of all existing free-standing trees with a caliper of six inches or greater and the boundary line, variety of species, range of sizes and condition of trees within a wooded area.

WOODLAND. A group of three or more trees in close proximity to one another in which at least one of the trees has a DBH of a minimum six inches.

VEHICULAR USE AREA. All areas used for the display or parking of four or more vehicles, including boats and heavy construction equipment, whether such vehicles, boats or equipment are self-propelled or not (i.e., trailers), and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to driveways, parking lot aisles, drive-through window lanes, stacking areas for car washes and gas stations.

§95.17 APPLICABILITY.

- (A) The Tree Preservation regulations of this subchapter shall apply to all lands in the Village.
- (B) No land shall be cleared of woodlands nor shall free-standing trees with a DBH of six inches or greater be cleared and/or removed without a Tree Removal Permit issued by the Building Inspector unless exempt from regulation under §95.18.
- (C) Clearance and removal of trees shall mean, but not be limited to, damage inflicted to the root system by machinery, storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; paving with concrete, asphalt or other impervious materials within such proximity as to be harmful to the tree.
- (D) No Site Work shall occur without a Tree Survey and, where necessary, a Tree Removal Permit.
- (E) No building permit, grading plan, or soil removal or filling permit shall be issued for the construction, alteration or addition to a building, or the grading or alteration of the land surface without conformance to this subchapter.
- (F) No Tree Removal Permit shall be issued for any parcel of land or development which requires an approved site plan under §158.38 until a site plan, including a Tree Survey and Preservation Plan, is submitted to and approved by the Plan Commission and Village Board of Trustees.
- (G) No Tree Removal Permit shall be issued for any parcel of land or development which requires a Subdivision Plan approval, until a Final Subdivision Plan is approved by the Plan Commission and Village Board of Trustees.

Penalty, see §95.99

§95.18 EXEMPTIONS.

The following activities and properties are exempt from the Tree Preservation regulations in this subchapter and no Tree Removal Permit is required:

- (A) Removal of a tree with a DBH of six inches or less by an individual homeowner on a privately owned lot, except trees and other vegetation protected in landscape preservation or conservation easements, or other deed restricted tree preservation areas.
- (B) The removal of a dead, diseased or critically damaged tree.
- (C) The removal of trees in time of an emergency or when they pose potential danger to life or property. See also §95.23.
- (D) The removal of trees necessary for the construction, operation and maintenance of drainage facilities, sanitary and storm sewers approved by the Village.

- (E) The removal of trees for construction of public roadways and associated improvements approved by the Village.
- (F) The removal of trees required for the installation, maintenance and repair of underground and overhead utilities.
- (G) Exempt Trees: Notwithstanding anything contained in this Chapter to the contrary, the following species of trees shall not be required to be preserved or protected as part of any tree preservation plan:
 - Buckthorn, common (*Rhamnus cathartica*)
 - Buckthorn, glossy (*Rhamnus frangula*)
 - Maple, box elder (*Acer negundo*)
 - Poplar, cottonwood (*Populus deltoides*)
 - Poplar, Lombardy (*Populus nigra "italic"*)
 - Poplar, white or silver (*Populus alba*)

The written approval of the Village Administrator, or his or her designee, shall be required for the removal of any of the species of trees specified in this subsection in order to confirm that said tree is one of the exempt species as listed above or is otherwise an exempt tree. After such a written determination has been made by the Village Administrator, or his or her designee, such trees shall, therefore, be considered "exempt trees" for the purposes of this Chapter. Until a tree has been determined by the Village Administrator, or his or her designee, to be an "exempt tree", it shall be presumed to be a protected tree.

(Amd. Ord. 14-03, passed 1/20/14)

§95.19 VEGETATION REQUIRING PRESERVATION.

- (A) Existing trees shall be preserved as follows:
 - (1) *Free-Standing Trees.* Any Free-Standing Tree having a DBH of six inches or greater shall be preserved to the greatest extent possible. Additionally, a smaller tree can be considered a specimen meriting preservation if it is a rare or unusual species or of exceptional quality. If existing trees cannot be preserved they shall be transplanted where feasible. Trees over seven inches in caliper should not generally be transplanted.
 - (2) *Woodlands.*
 - (a) A Woodland shall be measured by drawing a line around the Critical Root Zone of all trees on the outer edge of the woodland and measuring the area contained therein. Where more than one Woodland exists on a site the area as defined above shall be added together to obtain the total from which to calculate the percentage of Woodlands required to be retained.
- (B) To the extent sufficient Woodlands exist on a site, the existing Woodlands shall be protected as a conservation area according to the following sliding scale criteria for

minimum retention of total Woodlands: 10% in the commercial districts; 20% in office and research districts (O & R); 25% in medium-low density residential areas (R-1); and 50% on large-lot residential lots (R-2 and R-3). If the amount of Woodlands on a site is less than the percentage stated above, then all Woodlands must be preserved on the site to the extent such preservation is not otherwise exempt from this provision pursuant to §95.18.

- (C) *Priority areas.* Wooded 100-year floodplains, wooded wetlands, wooded stream corridors, and steep wooded slopes shall be considered " priority areas" to help prevent erosion and protect wildlife. Preservation of priority areas shall not be counted toward meeting the requirements of division (A)(2) above.
- (D) *Credit for preserved trees.* All preserved trees and vegetation, and transplanted trees shall be credited toward meeting the landscaping and screening requirements of §158.32 for the applicable portion of a site.

(E) *Procedures and submittal requirements.*

(1) *Plan approval procedures.*

- (a) For any parcel of land that requires a site plan or subdivision plat approval and that contains Free-Standing Trees which have a DBH greater than or equal to six inches or woodlands, a Tree Survey and Tree Preservation Plan must be submitted at the time of application for site development plan or preliminary subdivision plat approval. The Tree Preservation Plan shall be reviewed by the Plan Commission and approved by the Village Board as part of the site development plan or preliminary subdivision plan.
- (b) Prior to issuance of a building permit for development activities covered by this subchapter, a preapplication advisory conference, as provided for in §158.37, may be called by the Village to review procedures for protection and management of all protected landscape elements identified on the Tree Preservation Plan and to designate one or more persons on the petitioners development team as "Tree PreservationSupervisor(s)."
- (c) Tree Surveys and Tree Preservation plans shall be prepared by qualified professionals, including landscape architects and arborists. The development applicant must designate a Tree Preservation Supervisor who must have training in land- scape preservation techniques and take responsibility for ensuring the protection of existing trees during construction.

(2) *Tree Survey.* The Tree Survey shall include the following:

- (a) A scale at a minimum of 1' = 50' and a north arrow.
- (b) All existing, buildings, structures and paved areas.
- (c) The location, species (common and botanical), size and condition of each

Free- Standing Tree of six inches or greater DBH.

- (d) Delineate stands of natural woodlands by a circumferential line around all stands of trees with similar characteristics, such as type or species, defined as areas which include the outer perimeter of the Critical Root Zone of the individual trees. A notation shall be included which indicates the range of height and DBH of the trees within the area, the predominate species within the area, and the general health of the trees.
 - (e) Trees noteworthy due to size, age, historic, cultural or aesthetic value.
 - (f) Name and address of the preparer and the date of preparation.
- (3) *Tree Preservation Plan.* The Tree Preservation Plan shall include the following information:
- (a) A scale at a minimum of 1' = 50' and a north arrow.
 - (b) The footprint of any existing and proposed buildings, structures, paving and any other facilities.
 - (c) The location, species (common and botanical), size and condition of each tree to be preserved, transplanted or removed for all trees with a DBH of six inches or greater.
 - (d) Delineate stands of natural woodlands by a circumferential line around all stands of trees with similar characteristics, such as type or species, defined as areas which include the outer perimeter of the Critical Root Zone of the individual trees. A notation shall be included which indicates the range of height and DBH of the trees within the areas, the predominant species within the area, and the general health of the trees.
 - (e) The location and type of protective tree fencing (orange snow fence or red picket construction fence being approved types).
 - (t) Proposed grading and site changes around trees to be preserved and any proposed retaining walls.
 - (g) A statement concerning where and how deliveries for construction purposes are to be made to the site.
 - (h) Name and address of preparer and date of preparation.
 - (i) A panoramic photographic survey of all Free-Standing Trees outside of a Woodland with a minimum six inch DBH and the perimeter of all Woodlands to be preserved, with corresponding labels on the Tree Preservation Plan indicating where each photo/panoramic elevation was taken.

- G) A utility trenching plan containing the following information: all storm drains, sewers, easements, area drains, gas lines, electrical service, cable TV and water mains.
- (k) Additionally, the plan must show all lateral lines serving structures. The plans should be developed to avoid going into the Critical Root Zone of any tree on its path from the street to a building. Where it is not possible to avoid some encroachment, the design must minimize the extent of encroachment.

§95.20 ISSUANCE OF TREE REMOVAL PERMITS.

(A) Unless otherwise specifically authorized in this subchapter, it shall be unlawful for any person without a Tree Removal Permit from the Village to remove, injure, destroy, or undertake any procedure the result of which is to cause the death or substantial destruction of any tree having a diameter of six inches DBH or larger, or within one year remove trees from a site having an aggregate diameter of 12 inches DBH or larger. Tree Removal Permits authorizing the removal of such trees may be issued by the Building Inspector for, but not necessarily limited to, the criteria outlined below. Any petition for a Tree Removal Permit associated with a site plan approval or subdivision approval shall require review by the Plan Commission and approval by the Village Board of Trustees.

(B) *Criteria for tree removal.*

- (1) The tree is diseased, dying or dead;
- (2) The tree is damaged or injured to the extent that it is likely to die or become diseased, or that it constitutes a hazard to person or property;
- (3) Removal of the tree is consistent with good forestry practices;
- (4) Removal of the tree will enhance the health of remaining trees within the immediate vicinity;
- (5) Removal of the tree will permit a lot or property to be buildable, if nonremoval causes the lot or property to be unbuildable.
- (6) Removal of the tree will avoid or alleviate a hardship of another nature on the lot or residence located on the lot as approved by the Village Board of Trustees.

(C) *Tree removal permit when a building permit is sought.* In the event a Tree Removal Permit is sought in connection with construction requiring a building permit, the application shall be accompanied by:

- (1) A Tree Removal Permit fee, to be established from time to time by the Village Board of Trustees;
- (2) A Tree Survey of the lot prepared in conformance with the requirements of §95.19(D)(2); and

- (3) A Tree Preservation Plan in conformance with the requirements of §95.19(D)(3).
- (D) *Tree removal permit when no building permit is sought.* In the event a Tree Removal Permit is sought in connection with work for which no building permit is required, there shall be no charge for such permit. The application for such Tree Removal Permit shall contain:
- (1) Name and address of applicant;
 - (2) Commonly known address of Lot or property where tree or trees sought to be removed are located;
 - (3) A written statement indicating the reason for removal of the tree or trees and supporting documentation therefor;
 - (4) A general description and site plan showing the tree or trees to be removed, including species and size; and
 - (5) Name and address of contractor or other person who is proposed as having responsibility for tree removal.
- (E) *Fees.* A fee shall be paid for permit processing, and site inspections by Village Officials and/or consultants, and appeals based on the size of the site. Government agencies and licensed public utility companies shall be exempt from paying such fees. Fees shall be waived in the case of a permit to remove a tree deemed to be damaged or diseased.

Penalty, see §95.99

§95.21 TREE PROTECTION DURING CONSTRUCTION.

During construction, all reasonable steps necessary to prevent the damaging or destruction of trees (other than those specified to be removed) shall be taken, including, but not limited to the following:

- (A) No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted outside the building activity area or within the tree preservation area and no excess soil, additional fill, liquids, or construction debris shall be placed within the critical root zone of any tree that is required to be preserved; nor shall storage of hazardous chemicals occur within 100 feet of a protected tree.
- (B) Unless otherwise authorized by a Tree Removal Permit, no soil is to be removed from within the Critical Root Zone of any tree designated for preservation;
- (C) Within a designated preserved woodland, a property owner or builder may clear underbrush inside the woodland boundary line for the purpose of removing trees and other undesirable vegetation as noted in §95.20, consistent with good forestry practices, subject to the Critical Root Zone Protection requirements in this subchapter.
- (D) Prior to commencing any grading or construction activity on a site, the developer shall tag the trees that are intended for removal.

- (E) The following guidelines shall apply to site grading:
- (1) Building elevations and street elevations shall minimize the change in existing natural grade of yards.
 - (2) Storm sewers, sanitary sewers and septic systems should be located and elevations set in a manner that requires a minimum of regrading and tree removal.
 - (3) Tree retaining walls shall be required if grades will be lowered by more than 12 inches to create level ground for road or building construction nearby. Those walls shall be used to protect roots from exposure and damage. If grades are to be raised around a tree by filling with new dirt, a dry wall around the base of a tree shall be provided to allow infiltration of water and air, and drainage tiles shall be provided to facilitate drainage away from the trunk and to avoid smothering the roots. Light porous materials shall be used for fill material.
- (F) Where possible, no digging or trenching shall take place within the established Tree Preservation Area. If there is no alternative, certain precautions shall apply:
- (1) Trenches shall be no closer to the trunk than half the distance of the Critical Root Zone area;
 - (2) Roots shall be cut with sharp instruments to reduce the potential damage to the tree; and
 - (3) The trench shall be filled within the shortest amount of time possible and the soil shall not be compacted.
- (G) Appropriate protective fencing shall be temporarily installed to protect remaining trees. Trees to be saved in any development shall be surrounded by orange plastic or red picked snow fencing placed outside the critical root zone. The area within this fence shall be known as the Root Preservation Zone. The snow fencing shall be secured in place by posts spaced six feet apart and sunk two feet into the ground with a minimum above-ground height of four feet.
- (H) All required protective fencing or other physical barriers must be in place and approved by the Village prior to beginning construction. Such fencing must remain in place during the entire construction period to prevent the impingement of construction vehicles, materials, spoils, and equipment into or upon the Tree Preservation Area and should not come down until all construction is complete and equipment and materials and debris have been moved off site.
- (f) No attachments, signs, fences or wires, other than those approved for bracing, guying or wrapping trees, shall be attached to trees during the construction period.
- (J) Other measures such as construction pruning and root pruning of trees directly affected by construction must also be indicated on the plan.
- (K) Trees must be fertilized to aid in the recovery from possible construction damage.
- (L) Periodic photo surveys may be required at the discretion of the Building Inspector during and after construction completion to document that appropriate tree preservation techniques were observed.

- (M) The following guidelines shall apply to tree transplanting:
- (1) Trees may be transplanted with a "tree spade" truck or be hand dug. The following procedures shall be followed for hand digging: tree balls shall be hand shaped, burlapped, and tied with twine to provide maximum protection to the root system structure. A ball chain shall be used to remove a hand dug ball from the hole.
 - (2) Ten percent (10%) of the vegetative growth shall be pruned from the top of the tree prior to transplanting or stockpiling, to balance root loss, except for certain base root shrubs where most of the vegetative growth must be removed prior to transplanting when determined to be necessary by an arborist or landscape architect.
 - (3) If transplanted trees will be stockpiled they shall be set far enough apart to allow for air circulation. The balls will be covered with mulch. The root balls will be watered regularly and fertilized as needed.
 - (4) Upon planting, all trees shall be given the same orientation to the sun as they maintained in their previous location. The trunks should be marked with paint, indicating which side faced north, in its original location, prior to relocation.

(Amd. Ord. 14-03 passed 01/20/14) Penalty, see §95.99

§95.22 TREE REPLACEMENT.

- (A) In the event that a tree or trees designated for preservation on an approved Tree Preservation Plan are severely damaged, destroyed or removed they shall be replaced upon notice by the Building Inspector at the rates specified in division (E) below.
- (B) All trees planted to meet the tree replacement requirements of this chapter shall be common and native to northeastern Illinois and to the specific existing plant community found on the site. The tree replacement species are subject to the approval of the Building Inspector or designee.
- (C) Replacement trees shall be located close to the damaged or removed trees. If such placement is not feasible, an alternate location shall be approved by the Building Inspector.
- (D) In the event that the Building Inspector determines that full replacement would result in the unreasonable crowding of trees upon the lot, the cash value of the outstanding trees including the cost of the tree and labor to install, as determined by the Building Inspector, shall be paid to the Village for the improvement of Village land.
- (E) *Tree Replacement Schedule.*

TREE REPLACEMENT SCHEDULE	
DBH Inches of Existing Trees (in inches)	Minimum Caliper Inches of Each Replacement Tree (see footnotes*/**)
6 - 10	3 inches
11 - 15	3 inches
16+	4 inches

*The number of replacement trees required will vary depending on the size of the existing tree(s). The petitioner has the option to use fewer but larger replacement trees than specified here subject to approval of the Buildings Inspector.

**In such cases the combined calipers of the replacement trees shall equal 1.25 times the DBH of the existing tree(s) which are designated for removal. For existing trees, in the event of the DBH is expressed in whole number of inches plus a fraction of an inch, the number shall be rounded to the nearest whole number (with one-half being rounded upwards).

(Amd. Ord. 14-03 passed 01/20/14) Penalty, see §95.99

§95.23 EMERGENCIES.

- (A) In order to avoid danger or hazard to persons or property, during emergency conditions requiring the immediate cutting or removal of a tree or trees protected hereunder, a Tree Removal Permit shall be issued by the Building Inspector upon notice by the person removing the tree, and without submittal of a formal application.
- (B) In the event of such an emergency if neither the Building Inspector nor a designated representative are available to issue such a Tree Removal Permit, it shall be lawful to proceed with the cutting of the tree or trees 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 Building Inspector within 48 hours thereof.

§95.24 STOP WORK ORDER

If, in the opinion of the Building Inspector, the necessary tree preservation precautions as specified in this subchapter were not undertaken before construction commenced or are not maintained at any time during construction, a Stop Work Order shall be issued by the Building Inspector until such time as the permittee complies with these precautions. If the situation is not promptly rectified penalty fees shall be charged as specified in §95.99. Penalty, see §95.99

§95.25 TREES PRESERVATION ESCROW.

A Tree Preservation Escrow shall be provided by the permittee to insure the installation, maintenance, and adequate performance of preservation measures on a project. These measures include installation of tree protection devices during construction, repair of damaged trees, removal of dead, dying, or hazardous trees, and planting of replacement trees. If the agreed-upon measures are not followed, the Village can use the funds to perform the work. On completion of the installation of vegetation, the permittee shall post a two-year letter of credit in the amount of 125% of the total cost of landscape material for the first year, following Village acceptance of the installed landscaping, to guarantee the maintenance and replacement of planting and landscaping materials shown on the final development plan. This letter of credit may be reduced to 25 percent of total costs in the second year. The amount of the letter of credit shall be based on costs determined by a plant nursery and approved by the Building Inspector.

DEER PARK TREE COMMITTEE

§95.30 TREE COMMITTEE ESTABLISHED.

A standing committee of the Corporate Authorities of the Village, hereinafter called " the Deer Park Tree Committee", is hereby established and will consist of one Tree Committee chair, being the Village President or a Trustee of the Village, as so duly appointed by the Village President for an indefinite term as determined by the Village President, with the advice and consent of the Board of Trustees. One such member shall be an arborist who has volunteered for such service to the Village or has been engaged by the Village to provide arborist services to the Village, and one Village staff member as recommended by the Village Administrator. The Deer Park Tree Committee shall meet not less than once annually in order to make its tree budget recommendation to the Village Board.

§95.31 TREE COMMITTEE FUNCTIONS.

The Tree Committee's functions will be to support, advise, and consult with the Village Administrator in the enforcement of this Chapter regarding trees, recommend an annual budget to the Corporate Authorities of the Village for a community forestry program, and to provide recognition of "Arbor Day" with observance information and annual "Arbor Day" proclamations as so determined by said committee.

§95.32 ARBORIST.

The Village Administrator of the Village, or his or her designee, is appointed as the enforcement officer on the behalf of the Village for this Chapter. Said enforcement officer shall have the right to hire by contract a qualified person as a Village Arborist to investigate the condition of trees, to provide consultation, and submit recommendations to the enforcement officer and to the Tree Committee for the purposes of the implementation of this Chapter.

§95.33 CELEBRATION OF ARBOR DAY.

In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees. The special day established for that purpose was called Arbor Day and was first observed with the planting of more than a million trees in the state of Nebraska. Arbor Day is now observed throughout the United States and the world. Trees have a positive effect on the environment and on the economy by reducing the erosion of precious topsoil by wind and water, lowering heating and cooling costs, assisting in moderating the air temperature, by producing clean air, oxygen and providing a habitat for wildlife. Trees are a renewable resource from which paper is made, wood is produced for the construction of homes, fuel for fires and for the production of countless other wood products. The existence of trees in our Village increases property values, enhances the economic vitality of business areas, beautifies our community, and wherever they are planted, are a source of joy and spiritual renewal.

It shall be the policy of the Village of Deer Park and its Tree Committee to promote and celebrate Arbor Day within the Village and to support efforts to protect trees and woodlands within the Village and to encourage Village residents to plant and care for trees to promote the well-being of Village residents and future generations. (Amd. Ord. 14-03 passed 01/20/14)

NUISANCE TREES: INSPECTION, ABATEMENT, AND VIOLATION

§95.40 RIGHT TO INSPECT.

The officers, employees, and agents of the Village are hereby authorized and directed to enter on

and upon private property whereon there is located any tree that is suspected to be dead, diseased, infected, or infested with a condition creating a substantial risk of harm to or spreading a condition significantly injurious to other trees, persons, property, or animals, including without limitation, elm trees having the appearance of or suspected of being diseased with *Ceratocystis ulmi*, commonly called the Dutch elm disease, ash trees infested with the Emerald Ash Borer (*Agrilus planipennis* Fairmaire), or any tree of the species of oak having the appearance of or suspected of being affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt," and/or any tree having the appearance of or suspected of being infected with conifer bark beetles, all as determined by the Village Administrator, or designee, for the purpose of inspecting any suspected tree, after giving notice of the Village's intent and purpose to enter in or upon any such property in the Village, at all reasonable hours, for the purpose of inspecting said suspected tree(s) and removing therefrom samples or portions thereof to be tested to establish whether said tree is, in fact, dead, diseased, infected, or infested. (Amd. Ord. 16-11 passed 08/15/16)

§95.41 NUISANCE DECLARED.

In the event it is determined by the Village Administrator, or designee, or the Village Arborist, that any part of a tree is dead and any part of the tree imposes an imminent danger to a person or property, and/or any tree is, in fact, diseased or infected or infested with a condition creating a substantial risk of spreading such condition that would significantly be injurious to other trees, persons, or animals, including without limitation, the Dutch elm disease, infested with the Emerald Ash Borer, affected with oak wilt, or infected with conifer bark beetles, all as determined by the Village Administrator, or designee, or Village Arborist, said tree or trees shall forthwith be and are hereby declared to be a nuisance. (Amd. Ord. 16-11 passed 08/15/16)

§95.42 DUTY OF OWNER/OCCUPANT TO ABATE.

- (A) Ash and Oak Trees: When requested in writing by the Village or its agent, each owner or occupant of private property shall be required, within 30 days after such request has been delivered or mailed to them by the Village Administrator, or designee, to have an inspection on any tree(s) located on such private property by a qualified forestry professional in order to determine whether any diseased elm tree(s) and/or tree(s) infested with the Emerald Ash Borer, or any tree of the species of oak having the appearance of or suspected of being affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt," and/or trees infested with conifer bark beetles exists on such parcel of land. Written report(s) of the results of such inspection shall also be provided to the Village within such 30-day period. Such inspection and report shall include the marking and photographing of any tree(s) found to be diseased elm tree(s), tree(s) infested with the Emerald Ash Borer, and/or any tree(s) affected with the oak wilt, and/or trees infested with conifer bark beetles.

- (B) Trees, Parts of Trees: The owner(s) or occupant(s) of private property on which a tree (or part of a tree or trees) constituting a nuisance exists shall forthwith remove and destroy said tree (or part of a tree or trees) and shall chip the same or shall cause the same to be removed, destroyed, and ground, milled, chipped, or otherwise disposed of consistent with the provisions of the applicable state or federal quarantine within 10 days of notification to such owner, occupant, or agent that said dead, diseased, infected, and/or infested tree is, in fact, dead, diseased, infected, and/or infested. No chips or other particles resulting from such removal operation shall exceed one inch in any dimension, unless allowed pursuant to the provisions of any applicable state or federal quarantine. All

stumps of such dead, diseased, infected, and/or infested trees shall be removed to a depth of not less than eight inches below the ground surface and then covered with soil of the same depth. No ash tree material shall be removed from any quarantine zone as imposed from time to time by any state or federal agency, unless such removal is done consistent with the provisions of the state or federal quarantine. Notwithstanding any other provision in this Section to the contrary, all removal operations for such dead, diseased and/or infested tree(s) or part of a tree shall fully comply with all applicable state and federal statutes and/or regulations as exist from time to time.

(Amd. Ord. 16-11 passed 08/15/16)

§95.43 NOTICE TO ABATE.

Whenever the owner or occupant of any private property containing a dead, diseased, infected and/or infested tree permits the dead, diseased, infected and/or infested tree to remain on such premises, the Village shall proceed as follows:

- (A) A notice shall be sent by certified mail, return receipt requested, or delivered to the occupant and to the person to whom was sent the property tax bill for the general taxes for the last preceding year on the subject parcel of land.
 - (B) Such notice shall state that there is a tree constituting a nuisance on the premises. The notice shall describe the subject parcel of land by legal description or by street address, and shall state that unless the dead, diseased, infected, or infested tree is removed on or before the date stated in the notice, the dead, diseased, infected, or infested tree shall be removed at the property owner's expense. The date stated in the notice shall be not less than 30 days after the date of delivery or mailing of the notice.
 - (C) The notice shall also include a copy of this Chapter and a copy of 65 TLCS 5/11-20-12.
- (Amd. Ord. 16-11 passed 08/ 15/16)

§95.44 ABATEMENT BY VILLAGE; CERTAIN COSTS CONSTITUTE A LIEN.

In all cases where the owner, occupant, or agent of the subject parcel of land on which said dead, diseased, infected, or infested tree is located cannot be found, or if found and notified as aforesaid neglects or refuses to abate said nuisance, it shall be lawful for the Village to abate the same by the removal, destruction, and chipping of said dead, diseased, infected, or infested tree, and in that event said owner, occupant, and agent, or any of them, shall be charged with those expenses which may be incurred by the Village in the removal or abatement of the dead, diseased, infected, or infested tree as aforesaid, which expense shall be collected by the Village by suit or otherwise in addition to the fine or penalty provided. Such expenses incurred for the removal of a tree or trees shall be a lien upon the affected subject parcel of land in accordance with 65 ILCS 5/IL- 20-12.

(Amd. Ord. 16-11 passed 08/15/16)

§95.45 FAILURE TO REMOVE TREE PROHIBITED.

It shall be unlawful for the owner of any parcel of land in the Village to permit any tree, or portion thereof, determined to be a nuisance, as determined by the Village Administrator, or designee, and/or the Village Arborist, to remain on such premises or anywhere within the

Village. (Amd. Ord. 16-11 passed 08/15/16, (Ord. 14-13 passed 01/20/14)

ENFORCEMENT: PENALTIES

§95.90 ENFORCEMENT; APPEALS.

- (A) The Village Administrator, or his or her designee, shall be the enforcement authority for the purposes of the provisions of this Chapter.
- (B) The owner of property on which one or more trees is located or on which any activity affecting one or more trees regulated by this Chapter is or will be undertaken which is the subject of any decision of the Village Administrator, or his or her designee, made pursuant to this Chapter may appeal that decision in writing to the Corporate Authorities of the Village. Upon receipt of an appeal, the Corporate Authorities of the Village shall schedule and hold an informal hearing on such appeal as soon as practical after having given seven (7) days' written notice to the parties to such appeal. The Corporate Authorities of the Village shall render a final decision in writing on such appeal as soon as practical after such hearing.

§95.99 PENALTIES.

Any person, corporation, partnership, association, or other entity who or which violates any of the provisions of this Chapter shall be guilty of an offense punishable by a fine of not less than \$200.00 and not in excess of \$750.00 per day and shall be responsible for the Village's cost of prosecution, including but not limited to attorney fees, court costs and other costs and expense incurred by the Village thereto. Each day that any violation of this Chapter shall exist or continue to exist shall constitute a separate offense. The cutting or destruction of each separate tree in violation of this Chapter shall also constitute a separate violation. (Amd. Ord. 15-02 passed 3/16/15, 14-03 passed 01/20/14)