

**VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY**

INITIATED: Deputy Village Manager **DATE:** September 3, 2002
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt " RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND COM ED", as presented.



SUMMARY OF ITEM:

Adoption of the attached resolution will authorize an agreement between the Village of Downers Grove and ComEd for a uniform guide for tree trimming activities in the Village.

RECORD OF ACTION TAKEN:

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND COM ED**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement between the Village of Downers Grove (the "Village") and ComEd (the "Company"), for uniformed tree trimming activities within the community, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

Agreement

This agreement, dated as of _____, 2002, is between Commonwealth Edison Company ("ComEd"), an Illinois electric public utility, and _____ (the "Municipality"), an Illinois municipal corporation.

Whereas, ComEd provides electric delivery services to electric customers in the Municipality; and

Whereas, ComEd and the Municipality agree to the common goal of providing adequate, efficient, reliable, and safe electricity at the least cost; and

Whereas, ComEd and the Municipality agree that vegetation should be maintained so as to minimize the risk of electrocution from distribution circuit wires; and

Whereas, ComEd and the Municipality agree that proper management of vegetation, including the trimming of trees and the proper selection of appropriate species near electric distribution wires is critical to the maintenance of adequate, efficient, reliable, and safe electric delivery service;

Whereas, ComEd and the Municipality agree that ComEd's vegetation management should be performed so as to minimize the effect on trees, to the extent reasonably possible given the goal of maintaining adequate, efficient, reliable, and safe electric delivery service;

NOW, THEREFORE, ComEd and the Municipality agree as follows:

1. Specific Vegetation Management Practices. ComEd will periodically trim trees in the Municipality, consistent with the standards set forth below.

A. *Vegetation Management Cycle.* ComEd will inspect the trees and other vegetation along its distribution lines within the Municipality on a regular cycle, not to exceed

four years, trimming as necessary to meet required clearances. ComEd may also perform emergent trimming of particular trees when a need for it is identified by ComEd, by the Municipality, or by customer request.

B. *General Clearances.* ComEd will trim trees in accordance with the following table, using the trimming techniques specified by the American National Standards Institutes' ANSI A300 standard:

Table of Recommended Line Clearances (in feet)

Clearance From Trees	Rate of Re-growth	Service Wire (120-480v)	Isolated Open Wire Secondary (120-480v)	Open Wire Secondary (120-480v)	Secondary Cable (120-480v)	Primary Voltage (2-13.2kV)	Primary Aerial Cable	34 kV
Side	Slow	(a)	4 (e) (f)	4 (e)	(a)	6 (e)	4 (e)	8 (g)
	Fast	(a)	4 (e) (f)	4 (e)	(a)	8 (e)	4 (e)	12 (g)
Over	Slow	(a)	4 (e) (f)	4 (e)	(a)	6 (b) (e)	4 (e)	12 (b) (c)
	Fast	(a)	4 (e) (f)	4 (e)	(a)	8 (b) (e)	4 (e)	12 (b) (c)
Under	Slow	(a)	6 (f)	6	(a)	8	4 (e)	12 (d)
	Fast	(a)	8 (f)	8	(a)	12	4 (e)	12 (d)

- (a) ComEd will remove broken limbs that may damage equipment.
- (b) ComEd will remove all hazardous overhang.
- (c) ComEd will trim to keep overhang to a minimum.
- (d) ComEd will remove all fast-growing trees at the discretion of ComEd's trained arborists and, if necessary, when permission has been obtained.
- (e) Large tree trunks or major limbs of established trees may be allowed to remain as close as 2 feet from the conductors if (1) movement of either the conductor or the tree will not result in contact between the tree and the conductor, (2) the tree is not easily or readily climbed without the use of ladders or specialized climbing equipment, and (3) there is no evidence of re-growth or sprouting from the tree trunk towards the line.
- (f) ComEd may perform isolated secondary clearance when trimming is required.
- (g) Dangerous trees located off of ComEd's right-of-way should be removed if practical and if the owner's permission has been obtained.

C. *Exceptions to General Clearances.* The following are exceptions to the general clearance standards shown above:

- i. ComEd may trim to special clearances because of field conditions, or when ANSI A300 standards cannot be achieved. Except as noted below, deviation from the general clearances and deviation from the ANSI A300 standards shall be approved in each case by a trained arborist employed by or acting as a consultant to ComEd.
- ii. ComEd may make additional allowances for multi-phase construction, wires that will sag due to hot weather, or wires that will swing sideways due to strong winds. When trimming, ComEd will take into consideration that the greatest wire sag or blowout occurs at mid-span.
- iii. In the case of coniferous (evergreen) trees, ComEd will achieve proper clearance by using any one of the following methods: (a) removal of the tree, (b) topping to a point 6 feet from primary voltage conductors, or (c) trimming to achieve the provisions of subsection B above, and removal of all lower limbs within 10 feet of the ground or within 10 feet of an adjacent climbable object.
- iv. ComEd will not trim trees along single-building service drops on private property.

D. *Debris Removal.* ComEd shall remove the brush and debris associated with cyclic tree trimming.

2. Notice of Cyclic Trimming. ComEd will give notice at least 21 days and not more than 90 days before commencing cyclic trimming in the Municipality, as follows:

A. ComEd will notify the Municipality at the address shown in section 10 below where cyclic trimming in the Municipality is upcoming. ComEd will provide the Municipality with a description of the areas, by common street address, in which the trimming will occur.

B. ComEd will notify affected customers directly, by mail or by hanging a card on the customer's door. The notice shall contain, at a minimum, the following information: the nature of the planned vegetation management activities, the address of a website and a toll-free telephone number at which a written disclosure of all dispute resolution opportunities and processes, rights, and remedies provided by the ComEd may be obtained, a statement that the customer and the property owner may dispute the planned vegetation management activities through ComEd and the Illinois Commerce Commission, a toll-free telephone number through which communication may be had with a representatives of ComEd regarding the vegetation management activities, and the telephone number of the Consumer Affairs Officer of the Illinois Commerce Commission. The notice shall also include a statement that the location of the area of planned vegetation management activities is on file with the Municipality.

C. ComEd will publish notice in a newspaper in general circulation and widely distributed in the area in which the cyclic trimming will occur.

3. Non-Cyclic Vegetation Management. The provisions of Sections 1 and 2 above apply to routine, cyclic vegetation management. ComEd may conduct vegetation management, including trimming or removing particular trees, without prior notice, when and where such activities are urgently needed pursuant to state regulations to restore electrical service or to prevent an imminent interruption of service. Although ComEd, as the electric utility responsible

for reliability of service shall make the determination as to when non-cyclic vegetation management is appropriate, ComEd will send notice to the Municipality within 10 business days, at the address shown below for notices, informing the Municipality of the location and nature of the non-cyclic activities.

4. Removal and Replacement of Privately Owned Trees. Prior to cyclic trimming, ComEd will examine the distribution circuits to identify privately owned trees that, because of their type and close proximity to overhead lines, would need extensive pruning or removal. Upon identifying such trees for removal:

A. ComEd will contact the tree's owner, recommend removal of the tree, and obtain a signed permission from the owner to remove the tree.

B. For each tree over 4 inches in diameter (breast high) that is to be removed, ComEd may, at ComEd's discretion, offer to the owner a replacement voucher. Each voucher will be redeemable at a participating vendor for one replacement tree on ComEd's approved replacement list, or for an equal dollar amount of other approved landscape materials.

C. ComEd will mail the voucher, along with a planting guide and other appropriate publications, to the owner after the removal of the existing tree.

D. If the owner agrees to the removal of the tree, ComEd will cut down the tree, remove and chip associated brush, cut all wood into firewood length, and leave the wood on site.

E. The owner of the tree will be responsible for any stump removal and disposal of logs left on site. This responsibility will be specified in the signed agreement of the owner before removal of the tree commences.

5. Cooperation on New Private and Public Tree Plantings. ComEd and the Municipality will work together to promote the planting of appropriate species of trees on private

and public property throughout the Municipality, including education of the public as to appropriate types of trees and vegetation for locations near electric power lines, and encouraging developers of new projects within the Municipality to plant only appropriate types of trees and vegetation near electric power line rights-of-way. ComEd will supply the Municipality with a copy of a publication identifying tree species that are compatible and incompatible with electric power lines. Programs developed pursuant to this section that require expenditures by ComEd or the Municipality shall be subject to the prior mutual consent of the parties.

6. Applicability of Public Utilities Act and Village Ordinances. It is the intent of the parties that this agreement constitutes a written agreement mandating specific vegetation management practices within the meaning of Section 8-505.1(c) of the Illinois Public Utilities Act, and will supersede the provisions of Section 8-505.1(a) & (d) of that Act (220 ILCS 5/8-505.1(a) & (d)). ComEd's vegetation management activities will conform with, and this Agreement shall not preempt, the ordinances of the Municipality, including the requirement, if any, to obtain a permit for the removal of a tree within the Municipality.

7. Term of Agreement. The initial term of this agreement is four years from its effective date. The agreement shall automatically be renewed for successive four year terms, unless one of the parties notifies the other of its intention not to renew the agreement by so notifying the other party at least sixty days before the end of any four year term.

8. Benefit and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns.

9. Entire Agreement and Amendment. This Agreement contains the entire agreement between the Parties with respect to the matters described herein and it is a complete and exclusive

statement of the terms thereof and supersedes all previous agreements. This Agreement may not be altered or modified except by a writing signed by the Parties hereto.

10. Notices to ComEd and Municipality. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed given: (a) when personally delivered to the Party to be given such notice or other communication; (b) on the business day that such notice or other communication is sent by facsimile; (c) on the third business day following the date of deposit in the United States Mail as such notice or other communication is sent by certified or registered mail with return receipt requested and postage thereon fully prepaid; or (d) on the business day following the day such notice or other communication is sent by reputable overnight courier, to the following:

If to ComEd:

[...]

If to the Municipality:

[...]

or to such other address as the Parties may designate in writing.

11. Representations and Warranties. The Municipality hereby represents and warrants to ComEd as follows as of the date hereof:

(a) This Agreement has been properly authorized by a duly adopted ordinance or resolution of the Municipality and any and all other necessary corporate action of the Municipality has been taken and this Agreement has been duly executed and delivered by the Municipality and constitutes a valid and legally binding agreement, enforceable against the Municipality in accordance with its terms; and

(b) Neither the execution and delivery of this Agreement, nor the performance of the provisions of the agreements therein contained on the part of the Municipality, will contravene, violate, or cause a default under any applicable law, statute, ordinance, regulation, encumbrance, or agreement binding upon the Municipality, or result in a violation of any judgment, order, writ, injunction, decree, or rule of any court, administrative agency or other governmental authority binding upon the Municipality.

12. No Third Party Beneficiaries. The sole Parties to this Agreement are ComEd and the Municipality; and nothing contained herein creates any right, title, or interest in any other person or entity, whether under a third party beneficiary theory or otherwise.

13. Miscellaneous. If any provision of this Agreement or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement does not waive or modify, and shall not be construed as waiving or modifying, ComEd's rates, tariffs, or terms and conditions of service. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for or against ComEd or the Municipality, regardless of the involvement of either Party in drafting this instrument. The headings in this Agreement are for convenience only and shall not be utilized in the construction of the language of this instrument. This Agreement shall be governed and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first above written.

COMED:

COMMONWEALTH EDISON COMPANY, an
Illinois corporation

By: _____
Its: _____

Municipality:

[*Municipality*], an Illinois municipal corporation

By: _____
Its: _____

Attest: _____
Its: _____