

**VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY**

INITIATED: Village Forester **DATE:** March 15, 2005
(Name)

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

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE TO AMEND CHAPTER 24 (TREES & SHRUBS)", as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance will make certain amendments to tree preservation requirements.

RECORD OF ACTION TAKEN:

Trees & Shrubs

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 24 (TREES & SHRUBS)

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by ~~strikeout~~/underline; deletions by ~~strikeout~~):

Section 1. That Section 19.28. is hereby amended to read as follows:

19.28. Inspection and Permit Fees.

(a) An applicant for a permit under this chapter shall pay a permit fee in the amount specified in the following schedule. No permit shall be issued until the required permit fee is paid in full

Schedule of fees

<u>Type of Work</u>	<u>Permit Fee</u>	<u>Bond*</u>
Bituminous Driveway approach (Black Top)	\$45.00	\$400.00
P.C.C. Driveway approach (Concrete)	\$45.00	\$600.00
New Curb and gutter removal and replacement	\$45.00	\$30.00 per lineal foot
Curb and gutter (Typical curb cut)	\$45.00	\$200.00
Public walk	\$45.00	\$25.00 per lineal foot
Street opening removal and replacement		
1-50 sq. feet	\$45.00	\$400.00
51-100 sq. feet	\$60.00	\$1,000.00
101 sq. feet plus	10% of the estimated cost	\$5,000.00 plus a bond equal to 100% of the estimated value of the work in excess of \$5,000.00
Connection to storm sewer where street opening is not required	\$130.00	\$200.00
Tree planting	\$30.00	\$0.00
Tree Bonding Protection	\$30.00	The full tree appraisal amount per Section 24-3 for each parkway tree
tree		
0-9" diameter	\$30.00	\$300.00
9-24" diameter	\$30.00	\$500.00
24"+	\$30.00	\$700.00
Tree Removal		The full tree appraisal amount per Section 24-3 for each parkway tree

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Temporary access across a parkway (including lawn irrigation systems, dumpsters, etc.)	\$30.00		\$200.00
Other work in right of way (including storage in roadway)			
1-50 Sq. Feet	\$45.00	\$200.00	
50-100 Sq. Feet	\$60.00	\$500.00	
100+ Sq. Feet	10% of the estimated cost		\$1,000 plus bond equal to 100% of the estimated value of work in excess of \$5,000.00

*Cash bond refunded upon final acceptance of work and/or restoration. Maximum cash bond for any one person or company holding more than one permit concurrently is ~~\$5,000.00~~ \$10,000.00.

(b) No permit as required by Public Works shall be issued until the fees described above have been paid in full to the Village, nor shall an amendment to the permit be approved until additional fees have been received.

(c) Cash bond shall be refunded upon final acceptance of work or completion of restoration work.

(d) Fees and or cash bond may be forfeited in the event of non-acceptance of work or if restoration is not completed pursuant to Section 19-45. (Ord. No. 843, §§ 17, 23; Ord. No. 1750, § 4; Ord. No. 3263, § 16.)

Section 2. That Section 24.1. is hereby amended to read as follows:

24.1. Purpose.

~~The Village's Public Works Department, Forestry Division, shall have the power to promulgate and enforce rules, regulations and specifications concerning the planting, pruning, removal, spraying, maintenance and protection of trees and shrubs upon the right of way of any street or alley and upon all property owned or maintained by the Village. The purpose of this ordinance is to provide for the proper establishment of new trees, the protection and maintenance of existing trees and the timely removal of hazardous or infectious diseased trees on both public and private property. It is further intended to balance the property rights of individual property owners with those of the overall health, safety and welfare interests of the Village. Trees enhance and preserve the air quality of the Village through the filtering effect of trees on air pollutants, reduce noise within the Village through the baffle and barrier effect of trees on the spread of noise, reduce topsoil erosion through the soil retention effect of tree roots, reduce energy consumption through the wind break and shade effects, provide nesting areas for birds and other wildlife which in turn assist in the control of insects, reduce storm water runoff and the costs associated therewith, replenish ground water supplies and protect and increase property values. As a result, it is in the public interest to establish protection requirements for trees on private property as well as those trees on Village-owned lands.~~ (R.O. 1925, § 204.)

Section 3. That Section 24.2. is hereby amended to read as follows:

24.2. Authority/Determination of appropriate trees and shrubs.

~~The Forestry Division~~ Village Forester shall determine appropriate tree and shrub species, sizes, planting locations, and spacing distances for all plantings in the right-of-way of any street or alley and on all property owned or maintained by the Village. ~~The Village Forester, as an entity of the Village's Public~~

Works Department, shall have the power to promulgate and enforce rules, regulations and specifications concerning the planting, pruning, removal, spraying, maintenance and protection of trees and shrubs upon the right-of-way of any street or alley and upon all property owned or maintained by the Village. The Village Forester shall also have the authority to promulgate and enforce rules, regulations and specifications concerning the planting, removal and protection of trees and shrubs on private property when a construction or demolition permit is granted to a landowner or his agent or contractor. (R.O. 1925, § 206.)

Section 4. That Section 24.3. is hereby amended to read as follows:

24.3. Tree Removal Permit

Unless otherwise authorized by a permit obtained from the Public Works Department pursuant to Chapter 19, no entity or person shall plant, prune, remove, destroy, break, cut, deface, or in any way cause the demise, damage, injure or interfere with any tree, shrub or vegetation in any right of way of any street or alley or on any property owned or maintained by the Village. In addition to any fines that may be assessed for violation of this section, the person shall pay to the Village a sum equal to the value or partial value of the tree lost as a result of the violation. The value or partial value of the tree lost shall be as determined under Section 24-17. Any unauthorized plantings may be removed at the discretion of the Forestry Division.

A tree removal permit shall be required for the removal of any tree on Village owned or maintained land. Any permit authorizing removal may be subject to such conditions as the Director of Public Works or his designee may deem necessary or appropriate to minimize damage to other trees or vegetation on a site, and may include the installation of protective fencing.

(a) *Tree Removal Application.* The application for tree removal permit shall contain:

- (1) Name and address of applicant;
- (2) Commonly known address for the property where the tree sought to be removed is located;
- (3) A written statement indicating the reason for removal of the tree(s);
- (4) A general description of the tree(s) to be removed, including species and size; and
- (5) Name and address of the contractor or other person who is proposed as having responsibility for the tree removal.
- (6) Provide two (2) copies of the plans and specifications showing the work to be completed; and
- (7) Provide plans for tree protection of other trees in the immediate area.

(b) *Fees for Tree Removal Permit.* A tree removal permit fee shall be based upon the appraised value of each tree to be removed. The appraisal values shall be determined by the Village Forester using the most current edition of the Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers, which is edited, published and copyrighted by the International Society of Arboriculture. Various factors used in the tree value calculations for northern Illinois shall be obtained from the most current edition of the Species Ratings and Appraisal Factors for Illinois prepared by the Illinois Arborist Association.

(1) In the event a tree removal permit is sought in connection with work where no building permit is required, but a right-of-way permit may be required, there shall be no charge for such tree removal permit other than the appraised tree value. There are, however, costs associated with a right-of-way permit in Chapter 19.

(c) *Additional requirements.* 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 survey in conformance with the requirements of Section 24-5.
- (2) A tree preservation plan in conformance with the requirements of Section 24-5.

(d) *Basis for Tree Removal Permit Approval.* The Public Works Department may approve an application for a tree removal permit under one or more of the following circumstances:

- (1) the tree is dead or dying;
- (2) the tree is diseased;
- (3) 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 persons or property;

(4) removal of the tree is consistent with good forestry practices;

(5) removal of the tree will avoid or alleviate an economic hardship or hardship of another nature on the parcel or removal has been approved in accordance with the tree preservation plan submitted;

(6) such other reason as the Village Forester deems appropriate.

(R.O. 1925, § 207.)

Section 5. That Section 24.4. is hereby amended to read as follows:

24.4. General Provisions.

Unless authorized by the Village, it shall be unlawful:

(a) For any person or entity to remove any tree on Village owned or maintained land without having obtained a tree removal permit.

(b) For any entity or person to plant, prune, remove, destroy, break, cut, deface, or in any way cause the demise, damage, injure or interfere with any tree, shrub or vegetation in any right-of-way of any street or alley or on any property owned or maintained by the Village, unless authorized by a valid permit. Any unauthorized plantings may be removed at the discretion of the Village Forester.

(c) For any entity or person to deposit, place, store or maintain upon the ground in the right-of-way of any street or alley or on any property owned or maintained by the Village, any stone, cement or other material which shall impede free passage of water and air to the roots of the tree within the Critical Root Zone, defined in Section 24-7.

(d) For any entity or person owning, maintaining or operating any gas pipes or mains laid beneath the surface of any parkway in the Village, to permit any leak to occur in such pipes. In the event that a leak exists or occurs in any pipe or main, the person owning or operating such defective pipe or main shall repair the same immediately and stop such leak in a manner so as to prevent a recurrence of the same after receiving notice from the Public Works Department of the Village calling the attention of such person to the fact that such leak exists or has occurred. Such person shall, promptly and in any event within five days after the receipt of such notice, stop such leak in a manner so as to prevent a recurrence thereof.

(e) For any entity or person to attach any rope, wire, electric wire, insulator or any other electric device for holding electric wire to any tree now or hereafter growing on any property owned or maintained by the Village. Exceptions may include seasonal holiday lights, permanent cable and bracing systems, and lighting protection systems. Every entity or person having any wire charged with electricity shall, whenever practicable, securely fasten the same so that such wire shall not come in contact with any tree in any street or alley in the Village. When it becomes necessary to prune branches of trees in any right of way of any street or alley or any property owned or maintained by the Village for the benefit of any person running wire through such trees, the pruning shall be done consistent with the most currently accepted arboricultural practices at the expense of the person owning the wires.

(f) It shall be unlawful for any person owning or controlling property in the Village to permit the growth of any tree or shrub in such manner as to (1) obstruct the reflection of street lights, (2) obstruct the view by motor vehicle operators of any traffic control device within the public right-of-way, (3) obstruct or interfere with the passage of persons or vehicles on the streets or sidewalks of the Village, or (4) create a dangerous condition for persons or property on public streets, sidewalks or other public property including, but not limited to, any tree or shrub or part thereof which is likely to fall on or across any public property. For the purposes of this section, "traffic control device" shall include, but not be limited to, any sign, signal, or opticom equipment, placed or maintained by the Village to regulate, warn or guide traffic. Any person violating this section shall be required to prune or remove any such tree or shrub so that it will not create such an obstruction.

(1) When any person owning or controlling property in the Village fails to prune or remove any tree or shrub which is growing in such manner as to violate Section 24.4 (f) of this Code, the Village

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Forester will notify the owner of the property of the violation. If the owner fails to prune or remove such tree or shrub within ten (10) days after receipt of notice, the Village Forester will cause such tree or shrub to be pruned or removed, and any reasonable expense incurred by the Village for the pruning or removal, including any administrative costs incurred to prune or remove the tree or shrub and in billing the owners for the cost, shall be a charge against the owner which may be recovered in an appropriate action at law. In addition to all other remedies provided by law, the Village shall have the right to place a lien on the property on which such tree or shrub was growing for the reasonable cost of the pruning or removal thereof. Such lien shall be superior to all other liens and encumbrances except tax liens. Within one hundred twenty (120) days after such cost is incurred, the Village shall cause to be filed a notice of lien in the office of the Recorder of Deeds of DuPage County. Such notice shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the pruning or removal, including any administrative costs incurred in causing the pruning or removal and in billing the owner for the cost; (c) the date or dates which such cost and expense was incurred. The Village shall also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said Recorder's office.

(g) For any entity or person to attach any sign, advertisement or notice to any public tree.

In the erection, alteration or repair of any building or structure, or the construction, installation, alteration or repair of any street, sidewalk, or utility, trees in the right of way or on any Village owned or maintained property shall be protected from damage or removal unless otherwise authorized by a permit issued by the Public Works Department pursuant to the provisions of Chapter 19. Tree crowns and trunks shall not suffer any branch or bark loss. Roots shall be protected from compaction, storage of materials, and severing within a circle around the tree with the tree trunk as the focal point. The radius of the circle shall be determined by the tree diameter listed in the following table:

Tree diameter	Radius of circle - tree trunk in center
0 - 4.0 inches	2.0 feet
4.1 - 9.0 inches	5.0 feet
9.1 - 14.0 inches	10.0 feet
14.1 - 19.0 inches	12.0 feet
19.1 or more inches	15.0 feet

Roots located within the determined circle shall be protected by such practices as temporary bridges for vehicles or auguring for utility installation. Any factors that would cause any deviations from the above table shall be noted on the permit issued for such work. In addition to any fines that may be assessed for violation of this section, the person shall pay to the Village a sum equal to the value or partial value of the tree lost as a result of the violation. The value or partial value of the tree lost shall be as determined under Section 24-17.

(R.O. 1925, § 211.)

Section 6. That Section 24.5. is hereby amended to read as follows:

24.5. Tree Preservation Involving Construction.

It shall be unlawful for any person owning or controlling property in the Village to permit the growth of any tree or shrub in such manner as to (1) obstruct the reflection of street lights, (2) obstruct the view by motor vehicle operators of any traffic control device within the public right of way, (3) obstruct or

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interfere with the passage of persons or vehicles on the streets or sidewalks of the Village, or (4) create a dangerous condition for persons or property on public streets, sidewalks or other public property including, but not limited to, any tree or shrub or part thereof which is likely to fall on or across any public property. Any person violating this section shall be required to prune or remove any such tree or shrub so that it will not create such an obstruction.

In connection with projects requiring a demolition permit for demolition of a principal structure or a detached garage or a building or site development permit that will add a minimum of six hundred (600) square feet or more of gross floor area to a principal structure or a detached garage, or a preliminary and/or final subdivision approval or a planned development, a Tree Survey and Tree Preservation Plan shall be required. A tree removal permit and right-of-way permit may also be required. All buildings, building additions, and other structures (including but not limited to driveways) shall be located upon a lot or parcel of land in such a way as to minimize tree damage and/or tree removal.

(a) Tree Survey. A tree survey shall indicate the location, size and species (both scientific and common name), and relative health of all trees located on the parcel (including the parkway) with a trunk size of ten inches (10") in diameter as measured at 4.5 feet from the ground, or, for a multi-stemmed tree, having an aggregate diameter of 15 inches diameter as measured 4.5 feet from the ground. The tree location and size information shall be based upon a plat of survey prepared by a land surveyor. The balance of the information provided in any tree survey and any tree preservation plan and any amendment(s) thereto shall be prepared by a registered landscape architect as defined in 225 ILCS 315/1 et seq., or by an arborist as defined in 65 ILCS 5/11-42-13, or by persons with similar expertise in forestry, woodlands management, and/or horticulture whose qualifications have been approved in advance by the Village.

(b) Tree Preservation Plan. A tree preservation plan shall indicate the location and species of those trees to be preserved and the methods which are to be used to preserve such trees as well as the location, species, health and reason for removal of those trees where removal is proposed. This tree preservation plan shall specify the following preservation techniques to be employed:

(i) Grading and Construction Equipment: All grading and construction equipment shall be forbidden from encroaching upon the tree's drip line and/or the protection fence. No storage of materials shall be placed within the fenced area, including but not limited to vehicles, portable toilets and debris.

(ii) Material Detrimental to Trees: Crushed limestone, excess soil, additional fill or liquids and other materials detrimental to trees shall not be dumped within the drip line of any tree nor at any higher location where drainage toward the tree could conceivably affect the health of the tree.

(iii) Installation of Fencing: Fencing of wood, plastic, or chain link which is four (4) feet high and secured to metal posts driven into the ground which are spaced no further than ten (10) feet apart shall be implemented around the tree to be protected. The fence, once erected, shall remain in place in a full upright position until all construction activity on the site is completed and the site is ready for the final landscape grading and removal of the fence has been approved by the Village. Dimensions of the fence shall be listed on the plan and shall attempt to be as large as the crown spread or drip line. See Section 24-7 for further guidelines for the Critical Root Zone.

(iv) Utilities: All utilities and possible excavations for water, sewer, electric, gas, telephone and cable shall be shown on the plan. When applicable, any existing utilities that will remain the same, be removed or modified shall be shown on the plan. If utilities pass through a tree's Critical Root Zone, they must be augered underneath the tree.

(v) Root pruning, branch pruning, watering and fertilizing shall be required so as to reduce the impact of the construction.

(vi) No attachments or wires shall be attached to protected trees.

(c) Approval of Tree Preservation Plan. Upon receipt of a tree survey and Tree Preservation Plan, the Village Forester may visit and inspect the property to evaluate the application. The Village Forester shall evaluate the validity and practicality of tree preservation techniques and tree removals based on the location of structures, stormwater and drainage requirements, tree health, and any other reason deemed appropriate and consistent with good forestry practices. No permit shall be issued until the Tree Preservation Plan has

been approved.

(d) Amendments to an Approved Tree Preservation Plan. An approved Tree Preservation Plan may be amended after submission of new facts or changed circumstances which were not within the control of the applicant during the initial submission and which would cause a hardship in complying with the original plan. However, no amendment shall be approved which requests deletion of a protected tree which has been damaged or where there has not been compliance with the provisions of the approved Tree Preservation Plan.

Application for any tree removal shall be made to the Public Works department. The application shall include a written statement indicating the reasons for the removal of the tree(s), a map of the parcel of land indicating the location of the tree(s) to be removed, and a tree preservation plan, if applicable. In the event an emergency exists which poses an immediate threat to a person, property or community and where such emergency renders compliance with the tree removal permit process unreasonable, attempt to obtain oral authorization from the Village Forester for removal. If permission to remove a tree cannot be promptly obtained from the Village Forester, the tree may be removed; however, the Village Forester must be notified within forty-eight (48) hours of the removal and the reasons for such emergency removal. (R.O. 1925, § 662; Ord. No. 2748, § 1.)

Section 7. Section 24.5.1. is hereby repealed in its entirety

24.5.1. Pruning or removal of trees or shrubs by Village when owner fails to prune or remove; notice; expenses to be charged to owner.

~~When any person owning or controlling property in the Village fails to prune or remove any tree or shrub which is growing in such manner as to violate Section 24.5 of this Code, the Village Forester will notify the owner of the property of the violation. If the owner fails to prune or remove such tree or shrub within ten (10) days after receipt of notice, the Village Forester will cause such tree or shrub to be pruned or removed, and any reasonable expense incurred by the Village for the pruning or removal, including any administrative costs incurred to prune or remove the tree or shrub and in billing the owners for the cost, shall be a charge against the owner which may be recovered in an appropriate action at law. (Ord. No. 2748, § 2.)~~

Section 8. Section 24.5.2. is hereby repealed in its entirety

24.5.2. Same--Lien for expenses incurred by Village.

~~In addition to all other remedies provided by law, the Village shall have a lien on the property on which such tree or shrub was growing for the reasonable cost of the pruning or removal thereof. Such lien shall be superior to all other liens and encumbrances except tax liens. Within one hundred twenty (120) days after such cost is incurred, the Village shall cause to be filed a notice of lien in the office of the Recorder of Deeds of DuPage County. Such notice shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the pruning or removal, including any administrative costs incurred in causing the pruning or removal and in billing the owner for the cost; (c) the date or dates which such cost and expense was incurred. The Village shall also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said Recorder's office. (Ord. No. 2748, § 2.)~~

Section 9. That Section 24.6. is hereby amended to read as follows:

24.6. Infectious Disease Control.

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No person shall, without a written permit from the Public Works Department of the Village issued pursuant to Chapter 19, deposit, place, store or maintain upon the ground in the right of way of any street or alley or on any property owned or maintained by the Village, any stone, cement or other material which shall impede free passage of water and air to the roots of any tree. Whenever conditions are found that restrict the water and air movement, the Forestry Division may cause conditions to be made for free passage of water and air.

(a) Infectious, diseased trees declared public nuisance; duty of owner to cut trees.

Any live or dead tree on private property which is infected with an infectious disease, or which harbors vectors that transmit infectious disease (such as insects and other arthropods), is hereby declared to be a public nuisance injurious to the public health and welfare. Infectious disease includes, but is not limited to, Dutch Elm Disease, Elm Yellow, Oak Wilt, or Pine Wilt.

(b) Allowing infested trees to remain prohibited.

It shall be unlawful for any person owning or controlling any lot, tract or parcel of land to knowingly permit any and all trees, infected with infectious disease or vectors that transmit infectious disease, to remain on such property. It shall be the duty of such persons to see that all such trees are properly cut down and removed from the property. The failure to remove and destroy such trees shall constitute a violation of this section, and shall be punishable by fine or penalty in addition to such costs as may be incurred by the Village in enforcing and carrying out the provisions of this chapter.

(c) Inspection for infectious diseased trees.

In the event the Village Forester has reasonable cause to believe, either by virtue of its appearance or otherwise, that any tree located within such Village is or might be infected with infectious disease or is or might harbor vectors that transmit infectious disease, the Village Forester is hereby authorized and directed to enter on and upon any private or public property whereon such tree may be located for the purpose of inspecting such suspected tree, marking or identifying the tree, and removing therefrom samples or portions thereof so that same may be tested to establish whether or not such tree is in fact diseased.

(d) Notice to remove infectious diseased trees.

When any infectious live or dead tree is discovered by the Village Forester, the Village Forester will give a written notice, which may be served personally or sent by certified mail, to the person to whom was sent the tax bill for general taxes for the last preceding year on the property. Such notice shall identify the property, by common description, the tree or trees affected.

(e) Removal of infected trees by Village; cost of removal to be lien.

In the event that any such infectious live or dead diseased tree is not removed within thirty (30) days from the date of the delivery or sending of such notice, then the Village Forester shall enter upon such property with a licensed tree service and cut down and remove such tree and invoice the property owner(s) for the cost thereof. Within one hundred twenty (120) days thereafter the Village shall file in the Office of the Recorder of Deeds of the County, a notice of lien which shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the removal, including any administrative costs incurred in causing the removal and in billing the owner for the cost; (c) the date or dates on which such cost and expense was incurred. The Village shall also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said recorder's office. (R.O. 1925, § 210.)

Section 10. That Section 24.7. is hereby amended to read as follows:

24.7. Prevention of Injury to Trees-Public Right-of-Way

No person owning, maintaining or operating any gas pipes or mains laid beneath the surface of any parkway in the Village, shall permit any leak to occur in such pipes. In the event that a leak exists or occurs in any pipe or main, the person owning or operating such defective pipe or main shall repair the same

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immediately and stop such leak in a manner so as to prevent a recurrence of the same after receiving notice from the Public Works Department of the Village calling the attention of such person to the fact that such leak exists or has occurred. Such person shall, promptly and in any event within five days after the receipt of such notice, stop such leak in a manner so as to prevent a recurrence thereof.

In the erection, alteration or repair of any building or structure, or the construction, installation, alteration or repair of any street, driveway, sidewalk, or utility, trees in the right-of-way or on any Village owned or maintained property shall be protected from damage or removal unless otherwise authorized by a permit issued by the Public Works Department pursuant to the provisions of Chapter 19. Suitable protection includes fencing which is four (4) feet high and secured to metal posts driven into the ground which are spaced no further than ten (10) feet apart. Tree crowns and trunks shall not suffer any branch or bark loss. Roots shall be protected from compaction, storage of materials, severing, regrading of the parkway or excavation within the Critical Root Zone. It shall be unlawful for any entity or person to sever roots, compact the soil, regrade the parkway or excavate within the critical root zone of any tree in any right-of-way of any street without a valid permit during the erection, alteration or repair of any building or structure, or the construction, installation, alteration or repair of any street, driveway, sidewalk or utility. The critical root zone is defined as the minimum volume of roots necessary for maintenance of tree health and stability, and shall be a rectangle around the tree trunk with the minimum dimensions listed in the table below.

<u>Tree diameter 4.5 feet above ground</u>	<u>Width from street to property (minimum - curb to sidewalk)</u>	<u>Length along street (minimum)</u>	<u>Depth</u>
<u>0 - 12.0 inches</u>	<u>10 feet</u>	<u>10 feet</u>	<u>4 feet</u>
<u>12.1 - 24.0 inches</u>	<u>10 feet</u>	<u>20 feet</u>	<u>4 feet</u>
<u>24.1 or more inches</u>	<u>10 feet</u>	<u>30 feet</u>	<u>4 feet</u>

Whenever possible, the entire parkway shall be fenced except where access has been permitted. Any factors that would cause any deviations from the table above shall be noted on the permit issued for work in the area and shall be approved by the Village Forester before the work begins or the permit is issued.

In addition to any fines that may be assessed for violation of this section, the person shall pay to the Village a sum equal to the value or partial value of the tree lost as a result of the violation. The value or partial value of the tree lost shall be as determined by the Village Forester using the most current edition of the Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers, and edited, published and copyrighted by the International Society of Arboriculture. Various factors used in the tree value calculations for northern Illinois shall be obtained from the most current edition of the Species Ratings and Appraisal Factors for Illinois prepared by the Illinois Arborist Association.

(R.O. 1925, § 209.)

Section 11. That Section 24.8. is hereby amended to read as follows:

24.8. Violations.

When it becomes necessary to prune branches of trees in any right of way of any street or alley or any property owned or maintained by the Village for the benefit of any person running wire through such trees, the pruning shall be done consistent with the most currently accepted arboricultural practices at the expense of the person owning the wires.

(1) It shall be unlawful for any person or entity to fail to abide by the terms of any Tree Preservation Plan upon which a building permit or Tree Removal Permit has been issued. In addition to any other fines, fees, penalties or citations, the Village may revoke the permit and/or issue a stop work order. The stop work order shall be in effect until such time as the permittee complies with the appropriate regulations or, in the case of existing or likely damage to protected trees, takes corrective action acceptable to the Village to mitigate any damage. Each day during which a violation continues or is permitted shall be construed a

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separate and distinct offense.

(2) It shall be unlawful for any person or entity to fail to maintain the fence around the critical root zone, as defined above. Each day during which a violation continues or is permitted shall be construed as a separate and distinct offense.

(3) Any entity or person who injures a public tree shall be held responsible for the costs of repairs, such as pruning or cabling, if the injured tree will not die as a result of such injuries. In cases where the tree has been damaged beyond repair and cannot remain in the public right-of-way, the entity or person responsible for the damage shall remove the tree and stump at their own costs, or if the tree is an immediate hazard, the entity or person shall pay the cost the Village incurs in its removal.

(4) In addition to any fines that may be assessed for violation of this section, the person shall pay to the Village a sum equal to the value or partial value of the tree lost as a result of the violation or replacement of trees as provided below. The value or partial value of the tree lost shall be as determined by the Village Forester using the most current edition of the Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers, and edited, published and copyrighted by the International Society of Arboriculture. Various factors used in the tree value calculations for northern Illinois shall be obtained from the most current edition of the Species Ratings and Appraisal Factors for Illinois prepared by the Illinois Arborist Association.

(5) Whoever violates this Code, in addition to any other fines, or fees, shall be subject to the following provisions:

(a) Fines:

<u>1st Offense</u>	<u>\$500</u>
<u>2nd Offense</u>	<u>\$1,000</u>
<u>3rd and Subsequent Offense</u>	<u>\$2,500</u>

All violations that are committed by the same person or any firm controlled by such person shall be counted, regardless of whether or not the violations occur at the same time. Any finding or plea of guilty or plea of "no contest" upon a citation shall be deemed a violation.

(b) Replacement of each tree unlawfully removed under the following scheme:

<u>Removed 10-12 inch diameter tree*</u>	<u>Replace with 3 trees**</u>
<u>Removed 13-19 inch diameter tree*</u>	<u>Replace with 4 trees**</u>
<u>Removed 20-25 inch diameter tree*</u>	<u>Replace with 5 trees**</u>
<u>Removed 26-29 inch diameter tree*</u>	<u>Replace with 6 trees**</u>
<u>Removed 30-35 inch diameter tree*</u>	<u>Replace with 7 trees**</u>
<u>Removed 36 or greater inch diameter tree*</u>	<u>Replace with 8 trees**</u>

* Trunk size as measured at 4.5 feet above the established ground level.

** All replacement trees shall have a minimum trunk size of four (4) inches in diameter, as measured six (6) inches above the established ground level, upon installation.

In interpreting the above exchange rate, in the event of a fraction of an inch, if a fraction is equal to one-half (1/2) inch or greater, the higher full number shall be used.

The Village Forester shall approve species of any replacement tree. Any replacement tree shall be guaranteed by the violator for up to eighteen (18) months after planting. In the event a replacement tree dies or is in declining condition, the violator shall make a replacement of that dead or declining tree.

(c) Payment into the Village's tree planting fund in lieu of replacement.

In addition to the fines or fees described in section (a) above, but in lieu of replacement as set forth in section (b), any person or entity who unlawfully removes a tree may pay into the Village's tree planting fund the cost for replacement at a rate of one hundred dollars (\$100) per inch of trunk diameter of the tree that was destroyed or removed in violation of the tree preservation plan.

(d) In addition to any other applicable provisions, the Village may issue to any entity or person who violates any provision of this chapter an invoice as settlement of any violation. The invoice shall list the specific violations that occurred, the date or dates of a violation, the location of the violation and shall request payment of the invoice within thirty (30) days. In lieu of invoices, bonds issued for the work at a violation site may be forfeited should funds be sufficient to cover the tree values or fines. Upon failure to settle the violation, a complaint shall be filed in the Circuit Court for the damage and violation.

(R.O. 1925, § 208.)

Section 12. That Section 24.9. is hereby amended to read as follows:

24.9. Appeal.

~~No entity or person shall, without a written permit from the Public Works Department of the Village, attach any rope, wire, electric wire, insulator or any other electric device for holding electric wire to any tree now or hereafter growing in any street or public highway in the Village. Any entity or person in violation of this provision shall be subject to the provisions of Section 24-3.~~

Any applicant for a permit who received a notice of denial may file a written appeal with the Village Manager within ten (10) business days upon receipt of the decision. The written appeal shall set forth the reasons why the applicant believes the decision to deny the license should be reversed. The Village Manager shall respond to the appeal within fourteen (14) days, either affirming or reversing the decision to deny the permit. The decision of the Village Manager shall be the final administrative action of the Village with respect to the permit or application and shall be subject to the immediate appeal by the permittees or applicant to the Circuit Court. Such appeal to the Circuit Court shall be filed not later than thirty-five (35) days following receipt of the Village Manager's decision. Failure to timely file such appeal as provided herein shall render the Village Manager's decision final. (R.O. 1925, § 212.)

NOTE: As to electricity, see Ch. 10 of this Code.

Section 13. Section 24.10. is hereby repealed in its entirety

24.10. Removal of infected trees by Village; cost of removal of lien.

~~Every entity or person having any wire charged with electricity shall, whenever practicable, securely fasten the same so that such wire shall not come in contact with any tree in any street or alley in the Village. Any entity or person in violation of this provision shall be subject to the provisions of Section 24-3. (R.O. 1925, § 213.)~~

Section 14. Section 24.11. is hereby repealed in its entirety

24.11. Prevention of Injury to Trees-Public Right-of-Way

~~The Forestry Division shall review and approve all permits issued by the Public Works Department pursuant to this Chapter and Chapter 19 of this Code if the permit affects trees or shrubs, or will have an affect on trees or shrubs, in right of way or on Village owned property. Permits shall specifically describe the work to be done and the resulting impact on the public tree. (R.O. 1925, § 214.)~~

Section 15. Section 24.12. is hereby repealed in its entirety

24.12. Violations.

~~Any live or dead tree on private property which is infected with an infectious disease, or which harbors vectors that transmit infectious disease (such as insects and other arthropods), is hereby declared to be a public nuisance injurious to the public health and welfare. Infectious disease includes, but is not limited to, Dutch Elm Disease, Elm Yellows, Oak Wilt, or Pine Wilt. (Ord. No. 1100, § 1; Ord. No. 3211, § 1.)~~

Section 16. Section 24.13. is hereby repealed in its entirety

24.13. Same--Allowing infected trees to remain prohibited, duty of owner to cut trees.

~~It shall be unlawful for any person owning or controlling any lot, trace or parcel of land to knowingly permit any and all trees, infected with infectious disease or vectors that transmit infectious disease, to remain on such property. It shall be the duty of such persons to see that all such trees are properly cut down and removed from the property. The failure to remove and destroy such trees shall constitute a violation of this section, and shall be punishable by fine or penalty in addition to such costs as may be incurred by the Village in enforcing and carrying out the provisions of this chapter. (Ord. No. 716, § 5; Ord. No. 1100, § 2; Ord. No. 3211, § 2.)~~

Section 17. Section 24.14. is hereby repealed in its entirety

24.14. Inspection for infectious diseased trees.

~~In the event the Forestry Division has reasonable cause to believe, either by virtue of its appearance or otherwise, that any tree located within such Village is or might be infected with infectious disease or is or might harbor vectors that transmit infectious disease, the Forestry Division is hereby authorized and directed to enter on and upon any private or public property whereon such tree may be located for the purpose of inspecting such suspected tree, marking or identifying the tree, and removing therefrom samples or portions thereof so that same may be tested to establish whether or not such tree is in fact diseased. (Ord. No. 716, § 2; Ord. No. 3211, § 3.)~~

Section 18. Section 24.15. is hereby repealed in its entirety

24.15. Notice to remove infectious diseased trees.

~~When any infectious live or dead tree is discovered by the Forestry Division, the Forestry Division will give a written notice, which may be served personally or sent by certified mail, to the person to whom was sent the tax bill for general taxes for the last preceding year on the property. Such notice shall identify the property, by common description, the tree or trees affected, and the substance of Sections 24-12 to 24-16 and the statutory provisions under which they are adopted. (Ord. No. 1100, § 3; Ord. No. 3211, § 4.)~~

Section 19. Section 24.16. is hereby repealed in its entirety

24.16. Removal of infected trees by Village; costs of removal to be lien.

~~In the event that any such infectious live or dead diseased tree is not removed within ten (10) days from the date of the delivery or sending of such notice, then the Forestry Division shall enter upon such property and cut down and remove such tree and invoice the property owner(s) for the cost thereof. Within one hundred twenty (120) days thereafter the Village shall file in the Office of the Recorder of Deeds of the County, a notice of lien which shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the removal, including any administrative costs incurred in causing the removal and in billing the owner for the cost; (c) the date or dates on which such cost and expense was incurred. The Village shall~~

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also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said recorder's office. (Ord. No. 716, § 3; Ord. No. 1110, § 4; Ord. No. 2291, § 4.)

Section 20. Section 24.17. is hereby repealed in its entirety

24.17. Tree appraisal.

~~The appraised tree value or the partial loss in tree value shall be determined by the Forestry Division using the most current edition of the Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers, and edited, published and copyrighted by the International Society of Arboriculture. Various factors used in the tree value calculations for northern Illinois shall be obtained from the most current edition of the Species Ratings and Appraisal Factors for Illinois prepared by the Illinois Arborist Association.~~

Section 21. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 22. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk