

ARTICLE A. TREE PRESERVATION

5-3A-1: PURPOSE:

The purpose of this article is to establish high tree preservation standards for all public and private properties within the Village and to preserve trees as an important public resource enhancing the Village's natural character and heritage. This article is hereby determined to be significant in the following manner in protecting the public health, welfare and safety:

- A. Preserving the essential character of those areas throughout the community which are wooded and in a more natural state;
- B. Protecting the habitat of its existing wildlife;
- C. Reducing soil erosion and storm water runoff;
- D. Enhancing and preserving the air quality through the filtering effect of trees on air pollutants;
- E. Creating a sound buffer to noise pollution;
- F. Providing protection against natural elements such as sun, wind and rain;
- G. Providing habitat for birds which, in turn, assists in the control of insects; and
- H. Protecting and increasing property values. (Ord. 861, 5-21-2001)

5-3A-2: DEFINITIONS:

The following definitions shall apply to this article:

BUILDING ACTIVITY AREA: That buildable area of a lot or parcel in which construction and building activities occur which shall be the smallest practical area of a lot or parcel to be determined with the objective of preserving protected trees.

CROWN OF A TREE: The upper part of a tree, including the living branches with their foliage.

DIAMETER BREAST HEIGHT OR DBH: The diameter of a tree measured at four and one-half feet (4 1/2') above the grade existing at the base of a tree.

DRIPLINE: An artificial line along the ground which conforms to the perimeter of the crown of a tree and projects vertically to the ground.

PROTECTED TREE: Any tree, other than buckthorn, having a diameter of six inches (6") DBH or larger other than those exempt from protection pursuant to this article and other than removal of trees by the Village within any right of way.

REMOVAL: Physical removal of a tree, or actions such as severe pruning, damaging, poisoning or other direct or indirect action resulting in, or likely to result in, the death of a tree.

ROOT ZONE: The area of the ground near or beneath a tree having its center point at the center of the trunk of the tree and having a radius equal to one foot (1') for every inch of DBH.

TREE: A woody, self-supporting perennial plant reaching at least twenty feet (20') or more in height at maturity usually with one trunk, or a multi-stemmed trunk system and having a more or less definite crown.

TREE PRESERVATION AREA: That area of a lot or parcel of land within which all protected trees shall be protected as designated on a tree preservation plan.

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

TREE PROTECTION DEVICES: Barriers, fences, other devices and techniques reasonably required to protect the tree preservation area from intrusion by construction vehicles and equipment, materials and spoils.

TREE REMOVAL PERMIT: The required written permit issued in order to remove any protected tree within the corporate limits of the Village.

TREE SURVEY: A graphic display indicating location, size, species and condition of all protected trees. (Ord. 861, 5-21-2001)

5-3A-3: TREE REMOVAL PERMIT:

- A. Permit Required: During the process of any public or private new construction, enlargement or expansion of any structure, building or parking area, service area, septic system, or any other construction or development, it shall be unlawful for any person to cut down, destroy, remove or move, or effectively destroy through damaging, or authorize the cutting down, destroying, removing, moving or damaging of any protected tree without first obtaining a tree removal permit.
- B. Application, Fee, Bond And Plan Required: 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 of fifty dollars (\$50.00).
2. A cash bond of five hundred dollars (\$500.00) which shall be refunded to the applicant at the time a certificate of occupancy or final approval is issued for the construction for which the building permit was issued if there have been no uncured violations of this article.
3. A tree preservation plan. (Ord. 861, 5-21-2001)

5-3A-4: REMOVAL AND REPLACEMENT STANDARDS:

A. Unless the Village forester determines that, consistent with good forestry practices, the replacement of some or all of the removed trees is not appropriate, within twelve (12) months after removal of each protected tree pursuant to a tree removal permit, the owner or successor owner shall replace the removed tree pursuant to the following schedule:

DBH Of	Number Of
Removed Tree	Replacement Trees
6 inches to 12 inches	2 trees at 2 inches or 1 tree at 4 inches
13 inches to 24 inches	4 trees at 2 inches or 2 trees at 4 inches
25 inches or greater	6 trees at 3 inches or 3 trees at 4 inches

- B. At the time of replacement of trees, the owners shall provide to the Village a copy of a written guarantee from the vendor of the dies to the owner that the tree will be replaced if the tree dies or becomes diseased within one year after installation of the tree. The Village forester may accept any other form of such guarantee reasonably acceptable to the Village forester.
- C. The owner is encouraged, but not required, to replace any protected tree in the event the tree is diseased, dead or dying from natural causes, or in the event the tree is damaged or injured by natural causes where it is likely to die or become diseased. (Ord. 861, 5-21-2001)

5-3A-5: TREE PRESERVATION INVOLVING CONSTRUCTION:

- A. Tree Preservation Plan Required: In connection with projects involving excavation, earth moving, demolition, and/or the construction of any structure requiring a building permit, a tree preservation plan shall be submitted as an attachment to the application for such building permit. The tree preservation plan shall specify the following:
 - 1. The tree preservation area and building activity area.
 - 2. Steps to be taken to provide tree protection devices adjacent to the tree preservation area.
 - 3. The name, address, telephone number and facsimile number of the general contractor, who shall be responsible for the construction, erection, and maintenance of tree protection devices adjacent to the tree preservation area.
 - 4. The location, shape and spatial arrangement of all existing and proposed structures, driveways, parking areas, roads, and access drives designed in such a way as to avoid unnecessary removal of protected trees.
 - 5. Location of existing property lines, proposed or existing utility services including gas, electric, telephone, and cable TV. Every effort shall be made to protect existing protected trees during the placement of utility service lines including auguring as opposed to open cutting where feasible. A copy of the tree preservation plan and this article shall be submitted to the appropriate public utilities in order to alert said regulated public utilities to the proposed placement of the regulated utility service lines.
 - 6. Identification of land uses adjacent to the subject site.
 - 7. A tree survey showing the location, species, trunk diameter and condition of every tree with a DBH of six inches (6") or larger on the property. The survey shall distinguish existing trees which are proposed to be destroyed, relocated, replaced, preserved at their present location, or introduced into the area from an off site

source and identified on either the map or an accompanying sheet. The Village forester may provide that the tree survey exclude those portions of the site which it determines will not be affected by the development.

- B. Location Of Structures Near Trees: Consistent with the various setback requirements of the zoning ordinance, all buildings and other structures shall be located upon a lot or parcel of land to minimize tree damage and/or removal.
- C. Building Activity Area: The building activity area shall be the smallest practical area of a lot or parcel of land.
- D. Conditions Of Permit Issuance: Approval of an application for a building permit involving tree removal activity shall be granted only if the Village forester finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development to preserve existing trees and to otherwise enhance the aesthetic appearance of the development by the incorporation of trees in the design process. Relocation or replacement of trees may be required as a condition of approval in accordance with the criteria set forth in this article. No tree removal shall take place until the issuance of a tree removal permit.
- E. Inspections: Work shall not begin on the site until the site has been inspected by the Village for compliance with the tree preservation plan.
- F. Plan Available At Site: An approved tree preservation plan shall be available on the building site before work commences and at all times during construction of the project. The general contractor shall be responsible for notifying all other contractors of the tree preservation plan. (Ord. 861, 5-21-2001)

5-3A-6: TREE PROTECTION DURING CONSTRUCTION:

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

- A. Area Of Construction Activity: 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. No excess soil, additional fill, liquids, or construction debris shall be placed within the root zone of any tree that is required to be preserved.
- B. Tree Protection Devices:
 - 1. Trees to be preserved shall be protected during construction by tree protection devices around the dripline of each tree to prevent compaction of soil and other damage to the tree by equipment or materials. No excess topsoil, construction materials, debris or chemicals are allowed within the protected dripline of any tree

which is to be preserved. In addition, no parking of vehicles, on site offices or machinery is allowed inside the protected dripline. All areas for refueling, maintenance, outside eating, resting and burning shall be located a sufficient distance from any protected tree to prevent damage to such protected tree.

2. All required protective fencing or other physical barrier must be in place around the tree preservation area and/or protected trees and approved by the Village prior to beginning construction. The fencing or other physical barrier must remain in place during the entire construction period. All fencing must be secured to metal posts driven into the ground spaced no further than ten feet (10') apart.

C. Attachments To Trees Prohibited: No attachments, fences or wires, other than those approved for bracing, guying or wrapping, shall be attached to trees during the construction period.

D. Grade Changes:

1. Whenever a change of ground grading is planned, the trees to be preserved shall be protected by a wall so as to preserve the existing grade for the roots.

2. Wherever a change of grading is planned, the topsoil shall be preserved for the new landscaping to be installed. Unless otherwise authorized by the tree removal permit, no soil is to be removed from within the root zone of any tree that is to remain.

E. Trenches: When trenching alongside existing trees is unavoidable, the trench must be one foot (1') for every one inch (1") DBH away from the base of the existing tree to be protected.

F. Pruning: Construction pruning and root pruning of trees directly impacted by construction may be required for preservation of existing trees. These measures must be indicated on the tree preservation plan or the submitted application for permit.

G. Utility Installations: All utilities, including service lines, shall be installed in accordance with the tree preservation plan. Regulated public utilities which have been notified of the tree preservation plan in accordance with this article shall be responsible for adhering to said tree preservation plan during installation of necessary utility service lines. (Ord. 861, 5-21-2001)

5-3A-7: STREET RIGHT OF WAY TREE MANAGEMENT:

A. Right Of Way Widths:

1. Map Of Right Of Way Widths: For the purposes of this section, widths of rights of way of existing improved Village streets are established as depicted on the map on file with the Village Clerk as exhibit A to ordinance 685.

2. Right Of Way Widths Established: The established right of way widths are as follows:

a. Kimberly Road from Halcyon Lane north to Miller Road; Rustic Drive between Brookside Road and Miller Road; all portions of the east/west segment of Signal Hill Road; east/west segment of Old Barrington Road from its junction with Signal Hill Road; Honey Lake Road: eighty foot (80)' right of way.

b. All Village streets lying easterly of State Route 59, westerly of U.S. Route 12, southerly of Miller Road and northerly of Signal Hill Road except: i) that portion of Oxford Road lying between Biltmore Drive and Shady Lane; ii) East Oxford Road from Kimberly Road westerly to its terminus; iii) Rustic Drive; iv) Kimberly Road north of Halcyon Lane to Miller Road, and v) Concord Lane east of Kimberly Road to its terminus: sixty foot (60)' right of way.

c. North of Signal Hill Road; north/south segment of Old Barrington Road from State Route 22 to Signal Hill Road; Rainbow Road, Osage Drive, Mohawk Drive, Seminole Drive, Onondaga Drive, and Sioux Drive, all being in Unit 3 Biltmore Country Estates, south of Signal Hill Road; Arrowhead Lane north of Miller Road to its terminus: sixty foot (60)' right of way.

d. Border Lane and West Border Lane from Miller Road southerly and then to the western terminus of Border Lane, Concord Lane from Kimberly Road easterly to its terminus; Cherry Hill Road north of Route 22 and thence westerly to the terminus of Cherry Hill Road; all the following streets in Oaksbury Subdivision: Old Oak Cove, Pine Woods Drive, Carriage Road, Hewes Drive, Thomas Drive, Randolph Court, Duck Pond Lane; Saddle Tree Lane: fifty foot (50)' right of way.

e. All roads south of Illinois Route 22 except Rainbow Road and Saddle Tree Lane: forty foot (40)' right of way.

f. Oxford Road between Biltmore Drive and Shady Lane; East Oxford Road between Kimberly Road and its terminus; Hidden Oaks Lane from Honey Lake Road to its terminus; Century Oaks Drive from State Route 22 to its terminus: thirty three foot (33)' right of way.

B. Removal Of Dead And Diseased Trees From Street Rights Of Way: The Village may elect to remove dead and diseased trees from Village street rights of way when, in the opinion of the trustee in charge of roads, the Village forester or the Superintendent of Roads, it is appropriate to do so.

- C. Schedule To Determine Right Of Way Tree Management: The following schedule will be utilized to determine the right of the Village to provide routine right of way tree management, including removal of diseased and dead or dying trees as measured from the centerline of the pavement as existing from time to time:

Right Of Way Width (Feet)	Rights Of The Village To Exercise Tree Management From Pavement Centerline
33	15
40	20
50	25
60-86	30

- D. Contesting Right Of Way Determinations: Any property owner who wishes to contest the application of this section to a specific case may provide a survey which is not more than ten (10) years old which depicts the owner's property line adjacent to the existing right of way. (1977 Code § 4-3-9)
- E. Application Of Provisions: This section shall not apply to dedicated but unimproved streets. (1977 Code § 4-3-9; amd. 2004 Code)
- F. Nonliability Of Village For Removal Costs By Individuals: The Village will not be responsible for expenses incurred in the past or in the future by property owners who have initiated tree removal in property deemed to constitute a Village right of way. (1977 Code § 4-3-9)

5-3A-8: APPEALS:

The property owner may appeal in writing to the Environmental Commission any decision made by the Village Forester under the provisions of this article within thirty (30) days of the decision rendered. If not satisfied with the decision made by the Environmental Commission, the property owner may appeal in writing to the Village Board of Trustees within thirty (30) days of the decision being rendered by the Environmental Commission. (Ord. 861, 5-21-2001; amd. Ord. 1040, 6-28-2004)

5-3A-9: VIOLATIONS; PENALTIES:

- A. Violation: It shall be unlawful for any person, firm or corporation to fail to abide by the terms of any tree preservation plan pursuant to which a building permit or tree removal permit has been issued.
- B. Stop Work Order: If the precautions as specified in the tree preservation plan were not undertaken before construction commenced or are not maintained at any time

during construction, a stop work order shall be issued by the Village until such time as the permittee complies with these precautions.

- C. Penalties: Failure to obtain a tree removal permit prior to removing any protected tree will result in a fine of one hundred dollars (\$100.00) per inch of protected tree diameter, but subject to a maximum fine as provided by Illinois law. In the event that a tree is removed without a tree preservation plan or tree removal permit and the size of the removed tree cannot be determined, there shall be a fine of seven hundred fifty dollars (\$750.00) per tree. (Ord. 861, 5-21-2001)