

ARTICLE II. TREE PERMITS, PROTECTION AND PRESERVATION

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Sec. 25-10. Regulated tree activity; permit required.

(a) *Tree permit required.* Except as expressly provided in subsection (b) of this section, no person or governmental entity shall commence any regulated tree activity without first obtaining a tree permit from the village manager. In addition, applications for tree permits shall be required for all regulated tree activities involving trees with a DBH equal to or greater than six (6) inches or having an aggregate diameter equal to or greater than twelve (12) inches that may qualify as protected trees due to their size, location, or both. Utility companies having overhead facilities within public rights-of-way or utility easements located on private property may apply for group tree permits to conduct scheduled, nonemergency pruning of groups of trees. Prior to issuance of a permit to a utility company, a degreed forester or arborist certified by the International Society of Arboriculture on behalf of the utility company shall meet with the village manager's designee and they shall jointly inspect each tree to be pruned and agree on the manner of pruning each tree. No group permits shall be issued for pruning of any species of elm between April 1 and October 31, or any species of oak between April 1 and July 31, except when expressly authorized by the village manager's designee to alleviate an imminent hazard.

(b) *Exceptions.*

(1) *Pruning.* A tree permit shall not be required for the pruning of any tree on private property by the property owner or his representative in compliance with the National Pruning Standards.

(2) *Tree emergency.* In the case of a tree emergency, as defined in [section 25-2](#) of this Code, the village manager is hereby authorized to:

- a. Issue a tree permit without a tree permit application;
- b. Waive the requirement for a tree permit set forth in this section; or
- c. Waive any of the other regulations of this section or this chapter.

Notwithstanding any other regulations of this Code, if a tree emergency occurs, the person endangered by the tree emergency may take any reasonable action necessary to avoid or eliminate the immediate danger or hazard. The action taken shall be an action that is least likely under the circumstances to cause damage or removal of any trees, and the village assumes no responsibility or liability for any such action taken. The person taking such action shall document the reasons for the tree emergency by photography or videotape of the tree

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emergency condition and the damage or hazard created by such condition, and shall report the action taken to the department of public works within forty-eight (48) hours after the action is taken.

(Ord. No. 01-21, § 2, 3-19-2001; Ord. No. 2013-10, § 2, 4-16-2013)

Sec. 25-11. Tree permit application process.

- (a) *Application.* Applications for a tree permit shall be submitted to the village manager on a form provided by the village manager setting forth or otherwise providing the following information:
- (1) The owner's name and address and the owner's signed consent to the application;
 - (2) The applicant's name and address, if different than the owner, and his interest in the property;
 - (3) Size, genus and species, and location of the affected trees and the location of the property on which the regulated tree activity will occur, including street address or legal description;
 - (4) A brief explanation of reasons for the proposed regulated tree activity;
 - (5) A tree replacement plan, if applicable, in accordance with [section 25-13](#) of this article;
 - (6) A construction activity protection plan, if applicable, in accordance with [section 25-14](#) of this article; and
 - (7) Such other data and information as the village manager shall deem necessary to allow full and fair consideration of the tree permit application.
- (b) *Property inspection and on-site consultation.* Upon receipt of a tree permit application, the village manager, or his designee, shall:
- (1) Visit and inspect the property and contiguous and adjoining lots in order to evaluate the tree permit application; and
 - (2) Provide an on site consultation with the applicant to:
 - a. Review the proposed regulated tree activity;
 - b. Suggest alternatives to the proposed regulated tree activity where said activity may result in the possible damage or destruction of a protected tree; and
 - c. Provide instruction on the long term continuing care of any protected tree that is subject to the tree permit application, as well as any other protected trees on the property.
- (c) *Approval.*
- (1) *Protected tree not in a required yard.* If the protected tree is not located in a required yard, the village manager shall approve a tree permit application and issue a tree permit immediately after the on site consultation if, based on the tree permit application, inspection of the property, and the on site consultation with the property owner, or applicant, as well as all other reliable and relevant information, the village manager determines that both of the following conditions have been met:
 - a. The proposed regulated tree activity has been planned and will be performed in such a manner, to such a degree, and with such equipment and personnel, so as to (a) reasonably involve the least amount of damage or removal of trees and (b) not defeat, or be inconsistent with, the purposes and intent of this chapter as expressed in [section 25-1](#) of this chapter.

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- b. The tree permit application, including, without limitation, the construction activity protection plan, if required, satisfies the requirements of this chapter.
- (2) *Protected tree in a required yard.* If the protected tree is located in a required yard, the village manager shall approve a tree permit application and issue a tree permit (i) using the same standards as set forth in subsection (c)(1) of this section, and (ii) only after the applicant has submitted a replacement guarantee in a form satisfactory to the village manager, and consistent with subsection [25-13\(c\)\(2\)](#) of this chapter.
- (d) *Conditions on tree permit.* As a condition of the issuance of a tree permit, the village manager may require one (1) or more of the following:
 - (1) That any or all protected trees, located anywhere on a lot, that may be affected by such regulated tree activity be preserved and protected;
 - (2) That any or all landmark trees or heritage trees located anywhere on a lot that is immediately adjacent to the lot on which the regulated tree activity does, or is to, take place be preserved and protected; or
 - (3) That any or all protected trees, located anywhere on a lot, that may be affected by such regulated tree activity be replaced, in accordance with the tree replacement standards in [section 25-13](#) of this chapter.
- (e) *Denial.* If the tree permit application, inspection of the property, on site consultation and consideration of all other reliable and relevant information reveal that the applicant has not satisfied the conditions of subsection (d) of this section, or has not otherwise justified the damage or removal of trees to the satisfaction of the village manager, then the village manager shall promptly notify the applicant that the tree permit application is denied and that no tree permit shall be issued.
- (f) *Exemptions.* The village manager shall have the authority to exempt a regulated tree activity from the tree permit application requirements of this Code in the event that he determines that any of the following circumstances exist:
 - (1) When a protected tree, due to natural causes, is dead, dangerous, or interferes with any existing or proposed public improvements, is in dangerous proximity to any public utility lines or related facilities, or is a diseased tree or otherwise unsafe, unhealthy, or insect infected and constitutes a hazard to persons, property, or other trees.
 - (2) When a protected tree, due to natural causes, obstructs any street, sidewalk, or any pedestrian path, to such an extent that such protected tree interferes with free passage and clear view along such street, sidewalk, or path and at any street or driveway intersection.
 - (3) When removal of a protected tree is necessary to comply with the current standards generally observed by professionals in the arboricultural, forestry, landscaping, and landscape architecture professions.
 - (4) When removal of a protected tree is necessary to properly enhance the health and appearance of existing trees, shrubs and Other vegetation in a manner to implement a landscaping scheme that the village manager determines complies with the current standards generally observed by professionals in the arboriculture, forestry, landscaping, and landscape architecture professions.
 - (5) When removal of a protected tree is necessary to avoid denying an applicant a reasonable economic use of the applicant's property, or when the applicant otherwise demonstrates a hardship or special and unique circumstances.
- (g) *Appeals.*
 - (1) *Appeal to public works committee.* Appeals from any decision of the village manager (1) issuing or revoking a tree permit, (2) denying a tree permit application, or (3) granting or denying an

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exemption, pursuant to subsection (e) of this section, may be taken by an applicant or any other person adversely affected by any such decision. All such appeals shall be taken initially to the public works committee of the board of trustees by filing a written notice of appeal with the village manager within five (5) days following receipt of notice of the village manager's decision from which the appeal is taken. Within twenty-one (21) days following receipt of the written notice of appeal, the public works committee shall meet and review the tree permit application and any other reliable and relevant evidence, documents, or information, and may receive and consider new evidence. Within thirty (30) days after the village manager receives the written notice of appeal of the village manager's decision, the public works committee shall render a recommendation to the board of trustees to either uphold, reverse, or amend the village manager's decision. The village manager shall notify the person who filed the appeal within two (2) business days after such recommendation and shall provide such person a copy of the recommendation, as well as the date upon which the board of trustees will consider the recommendation.

- (2) *Final decision by the board of trustees.* Within thirty (30) days after the public works committee's recommendation, the board of trustees shall review the findings of the public works committee's recommendation and may receive and consider new evidence. Within thirty (30) days after review of the public works committee's recommendation, the board of trustees shall render its decision at a regularly scheduled meeting. The action taken by the board of trustees shall be final. The village manager shall notify the person who filed the appeal within five (5) days after such final action.
- (3) *Stay of regulated tree activities.* The filing of a written notice of appeal pursuant to this section shall stay all regulated tree activity and other activity for which a tree permit subject to the appeal has been granted or sought.
- (h) *Term of tree permit; expiration and renewal.* Tree permits shall have the same term, and be subject to the same expiration and renewal provisions, as are applicable to building permits issued pursuant to Article I of [Chapter 6](#) of this Code.

(Ord. No. 01-21, § 2, 3-19-2001; Ord. No. 2013-10, § 2, 4-16-2013)

Sec. 25-12. Tree permit revocation and remedies.

Tree permits shall be subject to the same provisions for revocation and other remedies as are applicable to building permits issued pursuant to Article I of [Chapter 6](#) of this Code.

(Ord. No. 01-21, § 2, 3-19-2001)

Sec. 25-13. Tree protection and preservation required.

- (a) *Special heritage and landmark tree regulations.* The following regulations concerning tree removal apply to all heritage trees and all landmark trees:
 - (1) *Heritage trees.* No tree permit for the removal of a heritage tree may be issued without a review of the application by the public works committee of the board of trustees and approval of the permit by the board of trustees by resolution duly adopted. Within fourteen (14) days following receipt of an application for a tree permit to remove a heritage tree, the public works committee shall schedule a meeting as soon as is practical to review the tree permit application and any other reliable and relevant evidence, documents, or information. Within thirty (30) days after its meeting to consider the tree permit, or such longer period as the applicant may consent to, the public works committee shall render a recommendation to the board of trustees to approve or deny the tree permit. The board of trustees shall consider the public works committee's

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recommendation at its next regular meeting and shall adopt a resolution either approving or denying the tree permit. Such resolution may include those conditions that the board of trustees determines are necessary and appropriate to accomplish the purposes of this chapter.

(2) *Landmark trees.*

- a. No tree permit for the removal of a landmark tree located in a required yard may be issued without a review of the application by the public works committee of the board of trustees and approval of the permit by the board of trustees by resolution duly adopted, all in accordance with the procedures set forth in subsection [25-13\(a\)\(1\)](#) above.
- b. If a landmark tree is not located in a required yard, a tree permit for its removal may be issued, and the tree may be removed, only after receipt by the village of a replacement guarantee in accordance with subsection [25-13\(c\)\(2\)](#) of this chapter.

(3) *Exception.* If a heritage or landmark tree is declared a nuisance, hazard, or unlawful obstruction of the public way, sections [25-16](#) and [25-22](#) of the Northbrook Municipal Code (1988) will govern.

(b) *Tree protection required.*

- (1) *General.* All regulated tree activities shall be planned and performed in such a manner, to such a degree, and with such equipment and personnel, so as to (a) reasonably involve the least amount of damage or removal of trees and (b) not defeat, or be inconsistent, with, the purposes and intent of this Code as expressed in [section 25-1](#) of this chapter.
- (2) *Construction activity.* To ensure the protection of trees during construction activity, a construction activity protection plan shall be required in accordance with [section 25-14](#) of this chapter.

(c) *Replacement required.*

- (1) *Replacement required.* Replacement shall be mandatory for the damage or removal of any protected, landmark, or heritage tree that is located in any required yard in the course of a regulated tree activity, except in the following instances:
 - a. Damage or removal of a protected, landmark, or heritage tree which, due to natural causes, is dead, dangerous, or interferes with any existing or proposed public improvements, is in dangerous proximity to any public utility lines or related facilities, or is a diseased tree or otherwise unsafe, unhealthy, or insect-infected and constitutes a hazard to persons, property, or other trees.
 - b. Where a protected tree is lawfully removed and where, following such removal, the property on which it is located will have a total of at least twelve (12) inches DBH of trees on the property for every one thousand (1,000) square feet of land area in the combined area of all the required yards.

Tree replacement shall be required regardless of whether the protected tree that is damaged or removed is located on the same lot on which the regulated tree activity takes place.

Tree replacement shall be required regardless of whether the protected tree that is damaged or removed is located on the same lot on which the regulated tree activity takes place.

(2) *Replacement guarantee.*

- a. The village manager shall not issue a tree permit for the removal of any protected tree located in any required yard without first receiving from the permit applicant a replacement guarantee.

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- b. The amount of the replacement guarantee shall be calculated based upon the tree replacement formula set forth in subsection [25-13\(c\)](#) of this chapter.
 - c. The replacement guarantee shall be in a form acceptable to the village manager and consistent with the form and content of the guarantees permitted under Subsections 3-502 (A) and (B) of the subdivision code.
 - d. The village manager may use the replacement guarantee only where the applicant fails to replace the total DBH of all protected trees actually removed, and only after providing the applicant with thirty (30) days' notice of such failure to replace, delivered by certified mail, return receipt requested. Any amount of the replacement guarantees remaining after the replacement work has been completed by the village shall be promptly returned to the applicant. Where the replacement guarantee is secured by a letter of credit or cash escrow, the letter of credit or cash escrow shall be drawn upon by the village only up to the amount required to insure for the replacement of the total DBH of all protected trees actually removed, and thereafter shall be returned to the applicant or cancelled per the terms of the letter of credit by the village manager.
 - e. The replacement guarantee may be waived by the village manager where there will still be at least twelve (12) inches of DBH of trees on the property for every one thousand (1,000) square feet of land area in all the required yards after the proposed removal is completed.
- (3) *Tree replacement formula.*
- a. Protected, landmark, or heritage trees shall be replaced by trees in such number and of appropriate species such that the sum of the caliper of the new trees that are to be planted shall be equal to or greater than the sum of the DBH of the protected trees, landmark, or heritage that have been damaged or removed.
 - b. Nuisance trees larger than six (6) inches DBH shall be replaced by on a tree-for-tree basis with a new tree that has a caliper of two and one-half (2½) inches.
- (4) *Tree replacement specifications.* All tree replacements shall be:
- a. Of a caliper of two and one-half (2½) inches or more, except as otherwise specifically provided in the tree replacement list;
 - b. Of a species listed on the tree replacement list;
 - c. In good health and structurally sound;
 - d. Made pursuant to a written time schedule approved by the village manager; and
 - e. Planted at approximately the same location as the trees they replace, where possible in accordance with good construction practices and current standards generally observed by professionals in the forestry, landscaping and landscape architecture professions, unless otherwise approved in advance by the village manager.
- (5) *Tree replacement care.* The applicant shall be solely responsible for the care, watering and feeding of newly planted trees for a period of two (2) years and, with regard to such care, watering and feeding, shall, at a minimum, adhere to the tree care standards.
- (6) *Alternative tree replacement location.* If the village manager determines that full tree replacement pursuant to the specifications provided herein will result in the unreasonable crowding of trees upon a public right-of-way immediately adjacent to the subject property, or would be otherwise inconsistent with current standards generally observed by professionals in the forestry, landscaping, and landscape architecture professions, the village manager may reduce the number of replacement trees to be planted on the subject property and designate other nearby public rights-of-way, or other public property suitable for the location of new trees.

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- (7) *Fee in lieu of tree replacement.* An applicant may request in lieu of replacing damaged or removed trees as required by subsection [25-13\(c\)\(1\)](#), the opportunity to pay a tree replacement fee to the village. Acceptance of such a request shall be in the sole discretion of the village manager. The village manager shall have no obligation to accept such a request in the event that a request is accepted, the following regulations shall apply:
- a. The tree replacement fee for replacement trees required pursuant to the provisions of this code shall be as set forth in the annual fee ordinance as to basis and amount.
 - b. The tree replacement fee must be received by the village manager prior to the issuance of a permit for removal.

The village shall use funds received as payment of a fee in lieu of tree replacement to plant trees on other nearby public rights-of-way, or other public property suitable to the location of new trees.

(Ord. No. 01-21, § 2, 3-19-2001; Ord. No. 07-71, § 2, 8-28-2007; Ord. No. 2013-10, § 2, 4-16-2013)

Sec. 25-14. Construction activity plan.

- (a) *Plan required.* A construction activity protection plan shall be filed with all tree permit applications in which the proposed regulated tree activity is construction activity.
- (b) *Contents of construction activity protection plan.* A tree protection/construction activity protection plan shall consist of a site plan of the property, of a scale no less than one (1) inch equals twenty (20) feet, on a topographic map if deemed necessary by the village manager, upon which shall be graphically and accurately marked all of the following information:
 - (1) Location of the property, including street address or legal description.
 - (2) Existing and proposed contours of the lot on which the construction activity is to take place.
 - (3) Building elevations, if applicable.
 - (4) The name of the general contractor or project representative, if any, responsible for the proposed construction activity.
 - (5) A demonstration of the ways in which the applicant will ensure that the level of tree protection required by [section 25-13\(b\)](#) of this chapter will be achieved.
 - (6) The location of all existing protected trees that are located on or near the property, and the location of all trees other than protected trees that are reasonably likely to be damaged or removed during the proposed construction activity
 - (7) A legend referencing the DBH, genus and species, general condition, and proposed disposition of existing protected trees, that are located on or near the property and trees other than protected trees that are reasonably likely to be damaged or removed during the construction activity.
 - (8) Detailed specifications for protection of protected trees, and for the protection of trees other than protected trees that are reasonably likely to be damaged or removed during implementation of the proposed construction activity, including, without limitation, proposed measures such as construction pruning, root pruning, installation of a retaining wall or approved material tree protection fencing, and augering of utility lines when such augering is determined by the village manager to be necessary to improve the chances of tree survival. Such specifications shall also include the identification and clear delineation on the site plan of the construction activity area and the tree protection area, and their respective perimeters.

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- (c) *Construction activity area.* The construction activity area shall be the area of the property that is the smallest area reasonably needed to undertake the proposed construction activity as determined by the village manager. The construction activity area shall include the entire area affected by the proposed construction activity, and shall also include any access route across the public right-of-way and the private tree presentation area. Construction activity shall not be conducted or staged in any area of the property located outside the construction activity area. No excess soil, additional fill, liquids, or any construction debris may be placed or located outside the construction activity area. All buildings, structures, and driveways shall be located so as to reasonably involve the least amount of damage or removal of trees, shall nevertheless be consistent with minimum building setback requirements of the zoning code.
- (d) *Tree protection area.* The tree protection area shall be the area of the property included in the construction activity area. No construction activity shall be conducted in the tree protection area. All reasonable measures and protective materials shall be employed to preserve and safeguard trees located within the tree protection area. Protective materials shall include, without limitation, the temporary installation of approved material tree protection fencing or other similar materials specifically approved by the village manager. All such fencing shall be at least four (4) feet in height and shall be secured to metal posts driven into the ground and spaced six (6) feet apart. All protective measures and materials shall be in place and approved by the village manager prior to the commencement of any construction activity. Protective materials shall not be removed until the village manager approves such removal after the completion of all construction activity. No attachments, fences, or wires, other than those approved for bracing, guying, or wrapping shall be attached to any protected tree during the construction activity.

(Ord. No. 01-21, § 2, 3-19-2001; Ord. No. 2013-10, § 2, 4-16-2013)

Sec. 25-15. Variations of required yard restrictions [Reserved].

(Ord. No. 01-21, § 2, 3-19-2001)

Sec. 25-16. Dead or declining trees.

- (a) Any dead or declining tree growing or standing on private property is declared to be a nuisance and a hazard.
- (b) Any dead or declining tree that is declared a nuisance or a hazard must be removed by the owner of the premises on which the tree grows or stands so that the nuisance or hazard is abated.
- (c) If a dead or declining tree that is declared a nuisance or a hazard is not removed within fourteen (14) days after written notice to the owner of the premises on which the dead or declining tree grows or stands, the village manager shall instruct the director of public works to proceed to remove the tree and all expenses incurred by the village in so doing shall be borne by the owner of the premises on which the tree grows or stands.

(Ord. No. 07-71, § 2, 8-28-2007)

Secs. 25-17—25-19. Reserved.