

CHAPTER 53: TREES AND PLANTS

Section

Protection and Preservation of Existing Trees

- 53.01 Intent and Purpose; Scope
- 53.02 Definitions
- 53.03 Tree Removal Permits and Preservation Plans
- 53.04 Protection of Existing Trees
- 53.05 Removal of Protected Trees
- 53.06 Tree Survival Guarantee
- 53.07 Permits Required
- 53.08 Public Nuisances
- 53.09 Permits to Plant or Remove Trees or Shrubs in Public Places
- 53.10 Damaging Trees or Shrubs in Public Places
- 53.11 Advertisements, Notices on Trees or Shrubs
- 53.12 Plants Overhanging Public Places; Roots Impeding Drainage
- 53.13 Poles, Wires to be Kept Away From Trees and Shrubs

Tree Committee

- 53.20 Tree Committee Established
- 53.21 Tree Committee Functions
- 53.22 Arborist

Weeds and Other Nuisance Vegetation

- 53.30 Weeds Declared a Nuisance; Height Restrictions
- 53.31 Removal Required
- 53.32 Enforcement

Diseased Trees; Infested Trees

- 53.40 Right to Inspect
- 53.41 Nuisance Declared
- 53.42 Duty of Owner/Occupant to Abate
- 53.43 Notice to Abate
- 53.44 Abatement by Village; Certain Costs Constitute a Lien
- 53.45 Failure to Remove Tree Prohibited

Enforcement; Penalties

- 53.50 Enforcement; Appeals
- 53.51 Penalties

PROTECTION AND PRESERVATION OF EXISTING TREES

§ 53.01 INTENT AND PURPOSE; SCOPE:

This Chapter establishes requirements for the protection and preservation of existing trees throughout the Village.

§ 53.02 DEFINITIONS:

CORPORATE AUTHORITIES: For the purposes of this Chapter, the term “Corporate Authorities” shall mean the President and Board of Trustees of the Village of Port Barrington

dbh: "Diameter at breast height" which shall be the diameter of the trunk size as measured at fifty four inches (54") above the established ground level, or for replacement trees, fifty four inches (54") above the top of the root ball.

ENFORCEMENT AUTHORITY: For the purposes of this Chapter, the enforcement authority shall be the Village Administrator, or his or her designee (also referred to herein as the “enforcement officer”).

EXEMPT TREE: A tree which has been determined by the Village Administrator, or his or her designee, or otherwise by the Village to be one of the exempt species of trees listed in Subsection 53.04(C)(3) of this Chapter, or which has been determined by the Village Administrator, or his or her designee, to be dead, diseased but not reasonably treatable, materially damaged, or structurally unsound or unsafe.

PROTECTED HERITAGE TREE: Any protected tree with a trunk size of twenty inches (20") or larger dbh, other than an exempt tree as defined in Subsection 53.04(C)(3) of this Chapter.

PROTECTED PRIVATE TREES: Any tree located on private property within the Village with a trunk size greater than or equal to four inches (4") dbh, other than an exempt tree as defined in Subsection 53.04(C)(3) of this Chapter.

PROTECTED PUBLIC TREES: Any tree located on public rights of way and/or on public property within the Village with a trunk size greater than or equal to four inches (4") dbh, other than an exempt tree as defined in Subsection 53.04(C)(3) of this Chapter.

PROTECTED TREES: For the purposes of this Chapter, this term shall mean and be defined as and include protected public trees, protected private trees, and protected heritage trees, which are all specifically protected by the provisions of this Chapter.

REGULATED ACTIVITY: Any activity that anticipates or involves the actual or reasonably likely damage or removal of one or more protected trees, including, but not limited to, the subdivision of property, public or private new construction or development, deforestation, landscaping, enlargements or expansion of any structure, building or parking areas.

VILLAGE: The Village of Port Barrington.

§ 53.03 TREE REMOVAL PERMITS AND PRESERVATION PLANS:

- A. Tree Removal: Except as specifically authorized in accordance with Sections 53.07 and 53.08 of this Chapter, no protected tree shall be removed or shall be otherwise affected by any regulated activity prior to receiving prior written approval by the applicable approving authority, and a tree removal permit issued by the Village Administrator, or his or her designee. No exempt tree shall be removed or shall be otherwise affected by regulated activity without the prior written approval of the Village Administrator, or his or her designee.

B. Approval Authority:

1. Approving Authority; When Public Hearing Required: A tree survey and tree preservation plan shall be submitted to the Plan Commission or to the Zoning Board of Appeals, whichever is the hearing body relative to a specific matter for a recommendation, and then to the Corporate Authorities of the Village for review and approval by anyone requesting preliminary or final plat approval or any zoning relief. The Corporate Authorities of the Village, as the applicable approving authority, shall review and approve tree preservation plans for applicants requesting preliminary and/or final plat approval or any zoning relief, after receiving a recommendation from the Plan Commission or from the Zoning Board of Appeals, as appropriate to the circumstances. The approval of a tree survey and tree preservation plan shall only be effective for twenty four (24) months from the date of approval, and all tree removal, replacement and/or relocation authorized shall be completed during that period, unless such a survey and plan are updated and the approval thereof is renewed, in which event said tree survey, tree preservation plan, and the approval thereof shall be effective for an additional twelve (12) months.
2. Approving Authority; When Public Hearing Not Required: The Village Administrator, or his or her designee, as the applicable approving authority, shall review and approve the tree survey, tree preservation plans, and tree removal plans for all applicants not required to appear before the Plan Commission, Zoning Board of Appeals, or Corporate Authorities of the Village.

- C. Compliance With Chapter: No letter of credit or other performance guarantee shall be released for any subdivision, no performance bond shall be released for any building or site permit, and no occupancy permit shall be granted relative to any building permit, unless the terms and conditions of this Chapter relative to tree preservation and replacement have been fully complied with.

§ 53.04 PROTECTION OF EXISTING TREES:

- A. Tree Survey: A tree survey shall be submitted to the applicable approving authority for review and approval, by anyone requesting a tree removal permit, a building or site development permit, and/or preliminary and/or final subdivision approval. The tree survey shall indicate the location, size and species (both scientific and common name), relative health, of all trees located on the parcel with a dbh of four inches (4") or greater. The tree location and size information which is part of a tree survey shall be based upon a plat of survey prepared by a land surveyor. The balance of the information provided by any tree survey and any tree preservation plan and any amendment(s) thereto shall be prepared by a registered landscape architect as defined by 225 Illinois Compiled Statutes 315/1 et seq., or by an arborist as defined in 65 Illinois Compiled Statutes 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 applicable approving authority.
- B. Integration Of Existing Trees Into Site And Landscape Plans: Subject to the determination of the applicable approving authority, or his or her or its designee, a reasonable effort shall be made to retain existing protected trees shown on the tree survey through the integration of those trees into the site and landscaping plan for a proposed site or development. Where a reasonable integration of protected trees into the site or development plan is not possible, and any protected trees are, therefore, approved for removal, the applicant shall be required to mitigate the removal of all such protected trees based upon the tree replacement exchange rate set forth in Section 53.05 of this

Chapter, and further provided that removal of protected trees designated for preservation shall be allowed only pursuant to the provisions of Section 53.05 of this Chapter. In the event that a site development plan or landscaping plan is not required by a landowner who desires to remove protected trees, a tree survey and tree preservation plan in compliance with this Chapter shall still be required.

C. Tree Preservation Plan: A tree preservation plan indicating the location and species of those protected trees to be preserved and the methods which are to be used to preserve such trees shall be submitted to the applicable approving authority. This tree preservation plan shall specify the following:

1. Preservation Techniques:

- a. Grading And Construction Equipment: All grading and construction equipment shall be forbidden from encroaching upon the protected tree's drip line.
- b. Material Detrimental to Trees: Crushed limestone and other materials detrimental to protected trees shall not be dumped within the drip line of any tree nor at any higher location where drainage toward the protected tree could conceivably affect the health of the protected tree.
- c. Installation of Snow Fencing: Snow fencing shall be installed during construction at the periphery of the protected tree's drip line. In areas where a protected tree is in the construction zone and fencing the drip line is not possible, two inch by six inch by eight foot (2" x 6" x 8") long boards banded or wired around each trunk shall be provided as protection to adequately prevent scarring.
- d. During Construction: If protected trees have their roots exposed, the roots shall be pruned. If exposed roots are greater than two inches (2") in diameter, the tree crown is to be pruned to compensate for the root loss. Also the protected tree shall be watered and fertilized.

2. Preservation Methodology: The methods which are to be used to preserve those protected trees shall be clearly specified on the tree preservation plan. These shall, at a minimum, include the preservation techniques listed above, although alternative methods may be considered. If, in the opinion of the applicable approving authority or his or her or its designee, the necessary precautions as specified in the tree preservation plan for the development were not undertaken before or during construction to ensure the preservation of those protected trees, any building or site development permit for the property in question shall not be issued, or, if previously issued, may be suspended or revoked until such time as these precautions have been complied with.

3. Exempt Trees: Notwithstanding anything contained in this Chapter to the contrary, the following species of trees shall not be required to be preserved or protected as part of any tree preservation plan:

Buckthorn, common (*Rhamnus cathartica*)
Buckthorn, glossy (*Rhamnus frangula*)
Maple, box elder (*Acer negundo*)
Poplar, cottonwood (*Populus deltoides*)
Poplar, Lombardy (*Populus nigra "italica"*)
Poplar, white or silver (*Populus alba*)

The written approval of the Village Administrator, or his or her designee, as specified in Section 53.07 of this Chapter, shall be required for the removal of any of the species of trees specified in this subsection in order to confirm that said tree is one of the exempt species as listed above or is otherwise an exempt tree. After such a written determination has been made by the Village Administrator, or his or her designee, such trees shall, therefore, be considered “exempt trees” for the purposes of this Chapter. Until a tree has been determined by the Village Administrator, or his or her designee, to be an “exempt tree”, it shall be presumed to be a protected tree.

4. Applicable Trees: The tree preservation plan shall be required to and shall specify such reasonable and necessary precautions to preserve and protect all protected trees.
5. Landscape Architect or Arborist Review: The Village, through the applicable approving authority, shall have the right, but not the obligation, to retain, at the applicant's expense, a landscape architect or arborist who shall, in that event, review the applicant's proposed tree preservation plan and provide recommendations to the applicable approving authority pursuant to this Chapter.
6. Proposed Location: Unless otherwise provided as part of a landscaping plan, the tree preservation plan shall also show the proposed location of all required replacement trees.
7. Other Options: Notwithstanding the other provisions of this Chapter to the contrary, no tree survey or tree preservation plan shall be required for a tree removal permit if the Village Administrator, or his or her designee, determines that such tree survey and tree preservation plan for such a tree removal permit can both be documented by other means, such as photographs and/or a written report prepared by a qualified arborist.
8. Annual Compliance Review: Notwithstanding the other provisions of this Chapter to the contrary, compliance with the tree removal permit and tree replacement provisions of this Chapter by a community association on the common property within a planned unit development or within a subdivision may, pursuant to a request made by the board of directors of such community association and with the prior written approval of the Corporate Authorities of the Village, be evaluated and approved or disapproved by the Village Administrator, or his or her designee, not less than annually on the basis of the budgeted and actual expenditures of said community association for tree replacement in comparison to the number of nonexempt trees removed from the common property of said community association during a comparable period. If approved by the Corporate Authorities of the Village, such annual compliance review and approval in lieu of the tree removal permit and tree replacement provisions of this Chapter shall be terminated, when and if so directed by the Corporate Authorities of the Village, at their discretion.

§ 53.05 REMOVAL OF PROTECTED TREES:

If a protected tree is removed for any reason or is seriously damaged, destroyed or razed during construction or other regulated activities, such trees shall be replaced with new trees in accordance with the following:

A. Tree Replacement Schedule:

SIZE OF EXISTING TREES DBH (IN INCHES)	NUMBER OF REPLACEMENT TREES REQUIRED
<i>PROTECTED HERITAGE TREES:</i>	
30" or greater	No removal shall be permitted
26" – 29"	12
20" – 25"	10
<i>OTHER PROTECTED TREES:</i>	
13" – 19"	4
8" – 12"	3
4" – 7"	2

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

B. Minimum Size Of Replacement Trees: All replacement trees shall have a minimum dbh of three inches (3"), upon installation.

C. Species Of Replacement Trees: The following are the permitted species of replacement trees:

- Beech, European (*Fagus sylvatica*)
- Buckeye, yellow (*Aesculus octandra*)
- Coffeetree, Kentucky (*Gymnocladus dioica*)
- Elm, Chinese (lacebark) (*Ulmus parvifolia*)
- Ginkgo (*Ginkgo biloba*)
- Hickory, bitternut (*Carya ordiformis*)
- Hickory, shagbark (*Carya ovata*)
- Larch, European (*Larix decidua*)
- Larch, Japanese (*Larix kaempferi*)
- Lilac, Japanese tree (*Syringa reticulara*)
- Linden, silver (*Tilia tomentosa*)
- Magnolia, cucumbertree (*Magnolia acuminata*)
- Maple, black (*Acer nigrum*)
- Maple, Miyabe (*Acer miyabei*)
- Maple, Norway (*Acer platanoides*)
- Maple, red or swamp (*Acer rubrum*)
- Maple, sugar or rock (*Acer saccharum*)
- Oak, bur (*Quercus macrocarpa*)
- Oak, chestnut (*Quercus prinus*)
- Oak, chinkapin (*Quercus muchlenbergi*)
- Oak, shingle (*Quercus imbricaria*)
- Oak, swamp white (*Quercus bicolor*)
- Oak, white (*Quercus alba*)
- Pagodatre, Japanese (*Sophora japonica*)
- Pecan (*Carya illinoensis*)
- Sourgum (black tupelo) (*Nyssa sylvatica*)
- Spruce, Black Hills

Spruce, Colorado blue
Spruce, green
Tuliptree (Liriodendron tulipifera)
Yellowwood (Cladrastis lurea)

Other species shall require the specific written concurrence of the approval authority.

- D. Amended Tree Preservation Plan: Removal of, or other regulated activity otherwise adversely affecting trees designated for preservation by a tree preservation plan shall be allowed only by amending such plan and with the approval of the applicable approval authority. The amended tree preservation plan shall indicate the location, species and size of all replacement trees consistent with the requirements for a tree preservation plan as set forth in this Chapter.
- E. In-the-Field Adjustments: In-the-field adjustments to trees designated for preservation on the tree preservation plan may be necessary during the course of construction. In such instances, the developer or property owner shall not remove, or otherwise adversely affect, any trees designated for preservation prior to site inspection and/or consultation with the Village Administrator, or his or her designee, and with a specific written tree removal permit for such trees. If in the opinion of the Village Administrator, or his or her designee, that any tree designated for preservation substantially impedes the development, in the field adjustments may be approved by the Village Administrator, or his or her designee, and a tree removal permit may be issued for such trees without the need for resubmission of an amended tree preservation plan, but such removal shall be and remain subject to the other provisions of this Chapter.
- F. Fee In Lieu: Notwithstanding the foregoing, in the event the site in question cannot accommodate all of the required replacement trees, a fee in lieu of such replacement trees shall be paid to the village based upon an estimated cost for each replacement tree and planting thereof as approved by the Village Administrator, or his or her designee, which shall be Four Hundred Dollars (\$400.00) as the fee-in-lieu of each replacement tree otherwise required. Such fees paid in lieu of replacement trees shall be used only for providing of trees on Village property, including, but not limited to, Village rights of way, and the care and maintenance thereof.

§ 53.06 TREE SURVIVAL GUARANTEE:

The applicant for such tree preservation plan shall be obligated to replace any relocated or replacement tree for up to eighteen (18) months after planting. In the event a relocated or replacement tree dies or is in declining condition, any such tree shall be replaced by a three-inch (3") dbh tree. All trees as required by the Subdivision Control Regulations and/or by the Zoning Code of the Village, and all replacement trees as required by this Chapter, shall be in healthy condition, as approved by the Village Administrator or his or her designee, at the time of final acceptance by the Village of the public improvements within the development.

§ 53.07 PERMITS REQUIRED:

- A. Scope of Requirement: No person except a person or contractor authorized by the Village President, Village Administrator, or his or her designee, or trustee for roads and drainage may perform any of the following acts without first obtaining a permit therefor from the Village Administrator, or his or her designee, but no fee shall be required for such permit, and nothing in this Section shall be

construed to exempt any person from the requirements of obtaining any additional permits as are required by law:

1. Plant on Village-owned property, or treat, prune, remove or otherwise disturb any tree, shrub, or other plant located on village owned property, except that this provision shall not be construed to prohibit owners of property adjacent to Village-owned property from watering or fertilizing without a permit any tree, shrub, or other plant located on such Village-owned property;
2. Trim, prune, or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on Village-owned property and thereby to cause damage to persons or property;
3. Place on Village-owned property, either above or below ground level, a container for trees, shrubs, or other plants;
4. Damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on Village-owned property;
5. Attach any rope, wire, nail, sign, poster, or any other manmade object to any tree, shrub, or other plant located on Village-owned property;
6. Dig a tunnel or trench on Village-owned property.

B. Issuance: The Village Administrator, or his or her designee, shall issue a permit to perform within thirty (30) days of the day of issuance any of the acts specified in Subsection A of this Section for which a permit is requested whenever:

1. Such acts would result in the abatement of a public nuisance or to otherwise comply with the provisions of this code; or
2. An application has been signed by the applicant and submitted to the Village Administrator, or his or her designee, detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Village Administrator, or his or her designee, may find reasonably necessary;
3. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Chapter and in accordance with any specific directions or conditions as required by the Village Administrator, or his or her designee; and
4. If the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon Village-owned property, and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the Village, its officers, agents, and employees, harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the Village Administrator a liability insurance policy in the amount of one million dollars (\$1,000,000.00) per person, two million dollars (\$2,000,000.00) per accident for bodily injury liability and one million dollars (\$1,000,000.00) aggregate for property damage liability, which policy shall name the village, its officers, agents and employees, as additional insureds.

C. In the event that the Village Administrator finds that a person has undertaken any removal, cutting, and/or other destruction of, and/or regulated activity otherwise adversely affecting any tree without a permit due to bona fide emergency circumstances, the Village Administrator, or his or her designee, shall have the authority to waive any penalty or to issue an after-the-fact tree permit to authorize such removal, cutting, destruction, or other regulated activity affecting any tree.

§ 53.08 PUBLIC NUISANCES:

A. Nuisances Declared: The following are hereby declared public nuisances under this Chapter:

1. Any dead or dying tree, shrub, or other plant, located on private property which reasonably may be expected to injure or harm any tree, shrub, or other plant.
2. Any otherwise healthy tree, shrub, or other plant, located on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant.
3. Any tree, shrub, or other plant, or portion thereof, located on private property, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public.
4. Any tree, shrub, or other plant, or portion thereof, located on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on village property.
5. Any tree, shrub, or other plant, or portion thereof, located on private property which dangerously obstructs the view as such may be determined by the village pursuant to this Chapter.
6. Any tree, shrub, or other plant, or portion thereof which obstructs or interferes with the operation of any tile, drain or culvert or with the operation of any existing individual sewage disposal system.

B. Right to Inspect: The officers, agents, servants and employees, of the Village have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

C. Inspection and Approval of Removal Required: Notwithstanding anything contained in this Chapter to the contrary, any property owner may remove or cause to be removed from his or her property any public nuisance as defined in Subsection A of this Section, but only after inspection of such suspected public nuisance by the Village Administrator, or his or her designee, and his or her written approval of the removal thereof.

D. Abatement: The following are the prescribed means of abating public nuisances under this Chapter:

1. Any public nuisance under this Chapter which is located on privately owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery, but only after inspection of such suspected public nuisance by the Village Administrator, or his or her designee, and his or her written approval of the removal thereof. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
 - a. The Village Administrator, or his or her designee, shall cause a written notice to be personally served or sent by regular U.S. mail postage paid to the person to whom was sent the tax bill for the general taxes for the last preceding year;
 - b. Such notice shall describe the kind of tree, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance;
 - c. Such notice shall describe by legal description or by common description the premises;

- d. Such notice shall state the actions that the property owner may undertake to abate the nuisance;
 - e. Such notice shall require the elimination of the nuisance no more than ten (10) days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year; and
 - f. In the event that the nuisance is not abated by the date specified in the notice the Village Administrator, or his or her designee, is authorized to cause the abatement of said nuisance and to cause a lien for the cost of such abatement and any related costs to be filed against the title to the property in question.
2. The Village Administrator, or his or her designee, is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Village Administrator, or his or her designee, to be an immediate threat to any person, or property.

§ 53.09 PERMITS TO PLANT OR REMOVE TREES OR SHRUBS IN PUBLIC PLACES:

It shall be unlawful to plant, remove or cut down any tree or shrub within any public street or right of way or other public place without having first secured a permit as provided for in this Chapter.

§ 53.10 DAMAGING TREES OR SHRUBS IN PUBLIC PLACES:

It shall be unlawful to damage or injure any tree or shrub planted in any public place.

§ 53.11 ADVERTISEMENTS, NOTICES ON TREES OR SHRUBS:

It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway or other public place.

§ 53.12 PLANTS OVERHANGING PUBLIC PLACES; ROOTS IMPEDING DRAINAGE:

- A. Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises so that the obstruction shall be removed. Roots of any tree or shrub which impede drainage shall be removed by the owner of the abutting premises pursuant to a permit as provided in Section 53.07 of this Chapter.
- B. Any limb of a tree which has become likely to or does fall on or across any public way or place shall be removed by the owner of the abutting premises pursuant to a permit as provided in Section 53.07 of this Chapter.
- C. If the owner of the abutting premises fails to fulfill said responsibilities as specified above, the village may fulfill said responsibilities, but shall not be required to do so, and such owner shall be liable to the village for the costs thereof.

§ 53.13 POLES, WIRES TO BE KEPT AWAY FROM TREES AND SHRUBS:

Any person given the right to maintain poles and wires aboveground in the streets, alleys or other public places in the village shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed and subject to the supervision of the Village Administrator, or his or her designee, so that no injury shall be done to the poles or wires or shrubs and trees by contact.

TREE COMMITTEE

§ 53.20 TREE COMMITTEE ESTABLISHED

A standing committee of the Corporate Authorities of the Village, hereinafter called “the Tree Committee”, is hereby established and will consist of one Tree Committee chair and two (2) Tree Committee members all being active, elected Village Trustees of the Village, as so duly appointed by the Village President for an indefinite term as determined by the Village President.

§ 53.21 TREE COMMITTEE FUNCTIONS

- A. The Tree Committee’s functions will be to support, advise, and consult with the Village Administrator in the enforcement of this Chapter regarding trees, recommend an annual budget to the Corporate Authorities of the Village for a community forestry program, and to provide recognition of “Arbor Day” with observance information and annual “Arbor Day” proclamations as so determined by said committee.
- B. The Tree Committee will also create and periodically review and update an Arboricultural Specification Manual.

(Amd. Ord. 2015-04-01, Passed 4-16-2015)

§ 53.22 ARBORIST

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

WEEDS AND OTHER NUISANCE VEGETATION

§ 53.30 WEEDS DECLARED A NUISANCE; HEIGHT RESTRICTION

- A. Without in any way limiting the term "noxious weeds" by the enumeration that follows, all noxious weeds, including, but not limited to: burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, blue vervain, common milkweed, wild carrot, poison ivy, wild mustard, rough

pigweed, lamb's quarters, wild lettuce, curled dock, smart weeds (all varieties), poison hemlock, wild hemp, and weeds which due to pollination are a menace to health and weeds otherwise injurious to public health or welfare, are hereby declared to be a public nuisance.

- B. It shall be unlawful for anyone to permit any noxious weeds, grass, or other plants to grow to a height exceeding ten inches (10") on any platted lot in the village; and any such noxious weeds, grass or other plants as described above exceeding such maximum height are hereby declared to be a nuisance (hereinafter referred to as "nuisance plants") and are prohibited, provided, however, that this height restriction shall not be applicable to: 1) trees, bushes, flowers, or other ornamental plants; 2) any vegetation on publicly held open space, parks, preserves, and other public places; or 3) any vegetation on any privately owned community association or development common areas designed, planted, and managed, with predominantly natural vegetation.

§ 53.31 REMOVAL REQUIRED

It shall be unlawful for any person owning or controlling any real estate within the corporate limits of the Village to permit the growth thereon of "nuisance plants" as defined in Section 53.19 of this Chapter. All such nuisance plants shall be cut and removed by the owner(s), occupant(s), and/or other person in control of said real estate at least four (4) times each year as follows:

- Once before May 15
- Once again before June 15
- Once again before July 15
- Once again before August 15

The failure to cut and remove nuisance plants within the designated time periods as set forth above shall constitute a violation of this Chapter.

§ 53.32 ENFORCEMENT

- A. Owner/Occupant Responsibility: The owner and/or occupant of any real estate within the corporate limits of the Village shall be responsible for and shall cause the cutting and removal of "nuisance plants" as defined in this Chapter, the trimming and/or the removal of nuisance bushes and/or trees.
- B. Abatement by Village: All officers, employees, and agents of the Village are hereby authorized to enter upon private property to inspect such property for violations of this Chapter and/or for the purpose of abating such violations.
- C. Costs as a Lien: The Village Administrator, or his or her designee, may cause the cutting of "nuisance plants" as defined in this Chapter, the trimming and/or the removal of bushes and trees when the owner(s) of real estate refuses or neglects to trim, and/or remove them ("nuisance bushes and trees") and to collect from the owner(s) of private property the reasonable cost thereof. This cost incurred shall be a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens; provided that within sixty (60) days after such cost and expense is incurred, the Village or person performing the service by authority of the Village, in his or its own name, files notice of lien in the office of the recorder in the county in which such real estate is located. The notice shall consist of a sworn statement setting out: 1) a description of the real estate sufficient for identification thereof, 2) the amount of money representing the cost and expense

incurred or payable for the service, and 3) the date or dates when such cost and expense was incurred by the Village. However, the lien of such Village shall not be valid as to any purchaser whose right in and to such real estate has arisen subsequent to the cutting and removal of nuisance plants, or subsequent to the trimming and/or the removal of nuisance bushes or trees, and prior to the filing of such notice, and the lien of the Village shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien. The cost of the cutting, trimming, and/or removal of nuisance plants, trees, and/or bushes shall not be a lien on the real estate affected unless a notice is personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the last preceding year, or if the property is exempt from real estate taxes, to the owner of record. The notice shall be delivered or sent after the cutting, trimming, and/or removal of nuisance plants, trees, and/or bushes on the property. The notice shall state the substance of 65 Illinois Compiled Statutes 5/11-20-7 and the substance of any ordinance of the Village implementing this section and shall identify the property, by common description, and the location of the nuisance plants, trees, and/or bushes to be cut.

DISEASED TREES; INFESTED TREES

§ 53.40 RIGHT TO INSPECT

The officers, employees, and agents of the Village are hereby authorized and directed to enter on and upon private property whereon there is located any elm trees having the appearance of or suspected of being diseased with *Ceratocystis ulmi*, commonly called the Dutch elm disease, ash trees infested with the emerald ash borer (*Agrilus planipennis* Fairmaire), or any tree of the species of oak having the appearance of or suspected of being affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt", and/or any tree having the appearance of or suspected of being infected with conifer bark beetles, all as determined by the Village Administrator, or his or her designee, for the purpose of inspecting any suspected tree, after giving notice of the Village's intent and purpose to enter in or upon any such property in the Village, at all reasonable hours, for the purpose of inspecting said suspected tree(s) and removing therefrom samples or portions thereof to be tested to establish whether said tree is, in fact, diseased or infested.

§ 53.41 NUISANCE DECLARED

In the event that it is determined by the Village Administrator, or his or her designee, or the Village Arborist, that any tree is, in fact, diseased or infected with the Dutch Elm Disease, infested with the Emerald Ash Borer, affected with oak wilt, or infected with conifer bark beetles, all as determined by the Village Administrator, or his or her designee, or Village Arborist, said tree or trees shall forthwith be and are hereby declared to be a nuisance.

§ 53.42 DUTY OF OWNER/OCCUPANT TO ABATE

- A. When requested in writing by the Village or its agent, each owner or occupant of land shall be required, within thirty (30) days after such request has been delivered or mailed to them by the

Village Administrator, or his or her designee, to have an inspection performed on any elm tree(s) or ash tree(s) located on such parcel of land by a qualified forestry professional in order to determine whether any diseased elm tree(s) and/or tree(s) infested with the Emerald Ash Borer, or any tree of the species of oak having the appearance of or suspected of being affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt", and/or trees infested with conifer bark beetles exists on such parcel of land. Written report(s) of the results of such inspection shall also be provided to the Village within such thirty (30) day period. Such inspection and report shall include the marking and photographing of any tree(s) found to be diseased elm tree(s), tree(s) infested with the Emerald Ash Borer, any tree(s) affected with the oak wilt, and/or trees infested with conifer bark beetles.

- B. The owner(s), occupant(s) of each parcel of land on which a diseased elm tree and/or tree infested with the Emerald Ash Borer, or any tree of the species of oak having the appearance of or suspected of being affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt", and/or trees infested with conifer bark beetles exists shall forthwith remove and destroy said tree and shall chip the same or shall cause the same to be removed, destroyed, and ground, milled, chipped, or otherwise disposed of consistent with the provisions of the applicable state or federal quarantine within ten (10) days of notification to such owner, occupant, or agent that said diseased, infected, and/or infested tree is, in fact, diseased, infected, and/or infested. No chips or other particles resulting from such removal operation shall exceed one inch (1") in any dimension, unless allowed pursuant to the provisions of any applicable state or federal quarantine. All stumps of such diseased, infected, and/or infested trees shall be removed to a depth of not less than eight inches (8") below the ground surface and then covered with soil of the same depth. No ash tree material shall be removed from any quarantine zone as imposed from time to time by any State or federal agency, unless such removal is done consistent with the provisions of the state or federal quarantine. Notwithstanding any other provisions in this Section to the contrary, all removal operations for such diseased and/or infested tree(s) shall fully comply with all applicable State and federal statutes and/or regulations as exist from time to time.

§ 53.43 NOTICE TO ABATE

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

- A. A notice shall be sent by registered mail or delivered to the occupant and to the person to whom was sent the tax bill for the general taxes for the last preceding year on the premises.
- B. Such notice shall state that there is an elm tree infected with Dutch Elm Disease or an ash tree infested with the Emerald Ash Borer, or an oak tree affected with oak wilt, or tree infected with conifer bark beetles, on the premises, the notice shall describe the premises by legal description or by street address, and the notice shall state that unless the diseased, infected, or infested tree is removed on or before the date stated in the notice, the diseased, infected, or infested tree shall be removed at the property owner's expense. The date stated in the notice shall be not less than thirty (30) days after the date of delivery or mailing of the notice.
- C. There shall be included with such notice a copy of this Chapter and a copy of 65 Illinois Compiled Statutes 5/11-20-12.

§ 53.44 ABATEMENT BY VILLAGE; CERTAIN COSTS CONSTITUTE A LIEN

In all cases where the owner, occupant, or agent of the parcel of land on which said diseased, infected, or infested tree is located cannot be found, or if found and notified as aforesaid neglects or refuses to abate said nuisance, it shall be lawful for the Village to abate the same by the removal, destruction, and chipping of said diseased, infected, or infested tree and in that event the said owner, occupant and agent or any of them shall be charged with those expenses which may be incurred by the Village in the removal or abatement of the diseased, infected, or infested tree as aforesaid, which expense shall be collected by the Village by suit or otherwise in addition to the fine or penalty provided. Such expenses incurred for the removal of a tree or trees infested with Dutch elm disease or a tree or trees infested with emerald ash borer shall be a lien upon the affected real estate in accordance with 65 Illinois Compiled Statutes 5/11-20-12.

§ 53.45 FAILURE TO REMOVE TREE PROHIBITED

It shall be unlawful for the owner of any premises in the Village to permit any tree or portion thereof infected with the Dutch Elm Disease or infested with the Emerald Ash Borer, or any tree of the species of oak affected with the fungus *Ceratocystis fagacearum*, commonly called "oak wilt", or any tree infected with conifer bark beetles, all as determined by the Village Administrator, or his or her designee, and/or the Village Arborist, to remain on such premises or anywhere within the Village.

ENFORCEMENT; PENALTIES

§ 53.50 ENFORCEMENT; APPEALS:

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

§ 53.51 PENALTIES

Any person, corporation, partnership, association, or other entity who or which violates any of the provisions of this Chapter shall be guilty of an offense punishable by a fine of not less than two hundred dollars (\$200.00) and not in excess of seven hundred and fifty dollars (\$750.00) per day, and each day that any violation of this Chapter shall exist or continue to exist shall constitute a separate offense. The cutting or destruction of each separate tree in violation of this Chapter shall also constitute a separate violation.

(Ord. 5-5-A, Passed 6-19-2013; Amd. Ord. 2015-04-01, Passed 4-16-2015)