

PROTECTION AND PRESERVATION OF PUBLIC TREES

CHAPTER 160: PROTECTION AND PRESERVATION OF PUBLIC TREES

160.001	Definitions
160.002	Purpose
160.003	Maintenance Responsibility
160.004	Authority and Implementation
160.005	Qualifications
160.006	Permit Required
160.007	Tree Planting and Maintenance
160.008	Penalty
160.099	Meetings

STATEMENT OF PURPOSE AND GOALS

§ 160.001 Definitions.

For purposes of this Chapter, the following words, phrases, and terms shall have the meanings set forth below:

ARBORIST Any individual experienced in the profession of forestry or a related field and is licensed or certified in forestry by an accredited forestry industry body, e.g. International Society of Arboriculture.

AMERICAN NATIONAL STANDARDS INSTITUTE (Hereinafter Called ANSI): The primary organization for fostering the development of workplace standards in the United States.

CANOPY: The portion of the tree above the trunk including leaves and branches, sometimes called the crown.

CRITICAL ROOT ZONE: An area on the ground extending out from the trunk of the tree in all directions a distance of at least one foot (1') for every inch diameter breast height.

COVERED PRIVATE TREE: A private tree that is located within the parkway area of a private street. For purposes of this chapter, a private street does not include a driveway, access easement, or similar accessway that serves three or fewer private properties and is not a throughway between two or more other public or private streets.

DIAMETER BREAST HEIGHT (Hereinafter called DBH or dbh): The diameter of the trunk of the tree measured in inches at a point four and one-half feet (4 1/2') above ground line. This forestry standard measurement is used for established and mature trees. All reference to diameter size shall be to the dbh.

INTERNATIONAL SOCIETY OF ARBORICULTURE: The accredited forestry industry body that promotes the professional practice of arboriculture and fosters a greater worldwide awareness of the benefits of trees. Certification through their organization is the international standard for tree care professionals.

PRIVATE TREE: Any tree that is located on privately owned property within the Village limits.

PUBLIC TREE: Any tree that is located on any Village right-of-way or other Village owned property.

TREE: Any self-supporting woody plant, together with its root system, trunk, and canopy; growing upon the earth usually with one trunk, or a multi-stemmed trunk system, supporting a definitely formed crown.

160.002 Purpose.

- (A) The purpose of this chapter is to provide for the preservation, protection, and maintenance of trees in the Village rights-of-way and on other public property

owned by the Village to enhance the public portion of the community forest by assuring the proper establishment of new trees and the protection and maintenance of existing trees. This chapter is also intended to preserve, protect and enhance critical infrastructure – the urban forest that is located on public land. It is also the purpose of this chapter to regulate the maintenance of covered private trees within the parkways of private streets.

160.003 Maintenance Responsibility

- (A) The Village shall be responsible for the maintenance of all trees located within Village rights-of-way and on other Village property.
- (B) The owner of any private tree that overhangs the public right-of-way shall be responsible for trimming, pruning, and otherwise maintaining such private tree in accordance with the requirements of Section 155.032 of this Code.
- (C) The owner of any private street right-of-way within the Village shall be responsible for maintaining all covered private trees in accordance with the same standards that apply to public trees under this Chapter.

160.004 Authority and Implementation.

- (A) The Director of Public Works and Engineering shall be responsible for the implementation and execution of this Chapter. The Director of Public Works and Engineering shall coordinate with the Village Manager and other Village departments as necessary in the implementation of this Ordinance.
- (B) The Director of Public Works and Engineering, or their designee, shall have full authority and responsibility to plant, prune, maintain, and remove public trees growing in or upon all Village rights-of-way or other Village property in accordance with the standards and requirements set forth in this Chapter.
- (C) The Director of Public Works and Engineering shall consult with a certified arborist as necessary to provide direction and oversight of urban forestry practices within the Village for the proper care and management of the urban forest. If the Village does not employ a certified arborist, then the Village may contract with a certified arborist to provide such consultation, subject to compliance with the Village's applicable purchasing and procurement policies.

160.005 Interference with Public Trees Prohibited.

- (A) No person shall remove, trim, prune, cut down, or damage any public tree or covered private tree except as provided in this chapter.
- (B) No person shall unreasonably hinder, prevent, delay, or interfere with any

authorized Village personnel or contractor engaged in the execution, implementation, or enforcement of this chapter.

- (C) The owner or owners of any lot or parcel adjacent to Village right-of-way are responsible for certain parkway maintenance activities as set forth in Section 155.032 of the Village Code. Adjacent owners must comply with this chapter in undertaking any such parkway maintenance work. No person shall undertake any work within a Village right-of-way or on other Village property in violation of this Chapter, Section 155.032 of the Village Code, or any other Village ordinance.

160.006 Permit Required.

- (A) Subject to the exceptions set forth in Section 160.007(G), no person shall remove, trim, prune, cut down, or damage any public tree or covered private tree without first obtaining a written permit from the Village.
- (B) The Director of Public Works and Engineering shall be authorized to issue permits for work affecting public trees and covered private trees subject to the terms and conditions of this chapter.
- (C) As a condition to issuance of a permit for work affecting public trees or covered private trees, the applicant shall be required to post a letter of credit in the amount required for public improvements under Section 155.222(D) of the Subdivision Regulations and conditioned upon completion of the work within the time required by the permit.
- (D) The Director of Public Works and Engineering shall be authorized to inspect work undertaken pursuant to any permit issued under this chapter, and all such work shall be subject to the Director's final inspection and approval. Approval of any work that includes replacement or planting of public trees shall be conditioned upon the applicant's delivery to the Village of maintenance security in the form and amount required by Section 155.222(C) of the Subdivision Regulations to ensure the health and survival of all newly planted trees for a three-year maintenance guarantee period.
- (E) Any letter of credit, maintenance bond, or other security posted with the Village in connection with a permit issued under this chapter shall be maintained, reduced, drawn upon, and/or released in accordance with the provisions of the Village's Subdivision Regulations that pertain to security for public improvements.

160.007 Tree Planting and Maintenance.

(A) Tree care practices.

1. All tree care practices with respect to public trees and covered private trees shall be accomplished in compliance with the most current edition of the ANSI A300 Standards, including, pruning, maintenance, and planting methods. Planting of all public trees and covered private trees shall be done in accordance with the minimum standards and procedures therefor in the most recent edition of the American Standards for Nursery Stock (ANSI Z60.1).
2. Spacing for newly planted public trees and covered private trees will be determined by the Director of Public Works and Engineering. Planting locations will be based on projected size of the tree, existing vegetation, underground utilities, streetlights, proximity to driveways and street intersections, and other factors as determined by the Director of Public Works in accordance with the Village Code.
3. All work affecting public trees shall be performed under the direction of the Director of Public Works and Engineering and/or their designee or pursuant to a permit issued by the Director of Public Works and Engineering consistent with this chapter.

(B) Approved Species. New public trees and covered private trees shall be selected from the Morton Arboretum's Northern Illinois Tree Species List and approved by the Director of Public Works and Engineering. No tree other than those species listed in the Northern Illinois Tree Species List as small trees may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

(C) Prohibited Species. The following trees are prohibited and shall not be planted on Village rights-of-way or other Village property or within private street rights-of-way due to commonly acknowledged undesirable characteristics and negative impact on Illinois ecosystems:

1. American Elm (Ulmus Americana)
2. Ash (Fraxinus sp.)
3. Ash trees (Fraxinus species)
4. Bois D'Arc (Maclura Pomifera)
5. Box Elder (Acer Negundo)
6. Catalpa (Catalpa sp.)
7. Chinaberry (Melia Azedarach)
8. Common Buckthorn, Rhamnus cathartica
9. Cottonwood, Poplar (Populus sp.)

10. Exotic Bush Honeysuckle, *Lonicera* spp.
11. Flowering Crabapple varieties (*Malus* sp.)
12. Glossy Buckthorn, *Rhamnus frangula*
13. Japanese Honeysuckle, *Lonicera japonica*
14. Jerusalem Thorn/Petuma (*Parkinsonia Aculeata*)
15. Lilac Chaste Tree (*Vitex Agnuscastus*)
16. Mimosa (*Albizia Julibrissin*)
17. Mulberry varieties (*Morus* sp.)
18. Peach/Plum varieties
19. Pine Tree Varieties (*Pinus* sp.)
20. Russian Olive, *Elaeagnus angustifolia*
21. Siberian Elm (*Ulmus Pumilia*)
22. Silver Maple (*Acer Saccharinum*)
23. Sycamore (*Platanus Occidentalis*)
24. Texas Mountain Laruel (*Sophora Secundiflora*)
25. Tree-of-Heaven, *Ailanthus altissima*,
26. Tulip Tree (*Liriodendron Tulipifera*)
27. White Mulberry, *Morus alba*
28. Willows (*Salix* sp.)

Any existing public trees and covered private trees of the aforesaid species shall gradually be removed through normal attrition and replaced with approved trees. The Director of Public Works and Engineering may permit a prohibited tree to remain when in their professional opinion a particular specimen exhibits redeeming characteristics typical of a desirable species but uncharacteristic for the prohibited specimen's species.

- (D) Tree protection. All public trees and covered private trees shall be protected during excavation or construction of any public or private building, structure, street improvement, utility facility, or other project so as to avoid all injury to the trunk or crown of the tree and any unnecessary injury to the root system of the tree. The person undertaking excavation or construction work shall employ tree protection measures as directed by the Director of Public Works and Engineering consistent with the requirements of this Chapter, including the following:
1. Unless a permit has been issued for the removal of a public tree or covered private tree, the critical root zone shall be designated and protected during construction or excavation activities using snow fencing or other protective measures approved by the Director of Public Works and Engineering. For purposes of this chapter, the critical root zone shall be measured at a distance in feet from the tree equal to the dbh of the tree trunk in inches.
 2. Building materials, stone, brick, sand, concrete, soil, debris, or other similar materials shall not be placed or stored on or in the critical root zone area of

any public tree or covered private tree, without written authorization from the Director of Public Works and Engineering obtained prior to storing any such materials or debris.

- (E) Contractors. The Village shall require that any Village contractor whose work may impact public trees utilize a certified arborist for all work pertaining to such public trees, including but not limited to removal, pruning, and planting activities. Contractors will abide by regulations set forth in Title XI Business Regulations Chapter 113: Contractors.
- (F) Removal. A public tree may be removed by the Village or pursuant to a Village-issued permit, or a covered private tree may be removed pursuant to a Village-issued permit, if the Director of Public Works and Engineering determines that: (i) the tree cannot be preserved considering the nature, cost, and importance of a proposed improvement, and whether there is a practicable alternative; (ii) the tree is of a prohibited species; (iii) the tree is dead or dying or is affected by fungus, insect, or other pest or disease, or the tree otherwise poses a risk or hazard to public health or safety; (iv) the tree poses a threat to electrical, telephone, gas, water, or sewer facilities; or (v) removal is otherwise necessary under the circumstances to protect public health, safety, or welfare.
- (G) Exceptions. If because of emergency, weather, casualty, or other conditions a public tree or covered private tree poses an imminent danger to health, safety, or property, the Director of Public Works and Engineering or their designee may give oral authorization for full or partial removal of the hazardous tree or other appropriate corrective work without issuance of a permit. Such oral authorization shall later be confirmed in writing by the Village.

160.008 Appeals.

A decision or written notice of the Director of Public Works and Engineering under this chapter may be appealed to the Village Manager. An appeal must be submitted in writing, set forth the decision and reason for the appeal, and be filed within ten (10) business days after the date of the decision or written notice. The Village Manager may affirm, modify, or reverse the appealed decision or written notice. The decision of the Village Manager shall be in writing and final. Nothing in this section shall be construed to limit the jurisdiction of any administrative adjudication hearing or court of law with respect to any violation of this chapter.

160.099 Penalty.

- (A) Any person who violates the provisions of this chapter shall, upon conviction, be liable for:
 - 1. The following fines:

- i. For unlawful damage, destruction, or removal of any public tree or covered private tree in violation of this chapter: \$500 for the first tree affected by such unlawful activities, \$1,000 for the second tree so affected, and \$1,500 for the third or subsequent tree so affected; and
 - ii. For any other violation of this chapter, not less than \$50 nor more than \$500 for each offense.
 - 2. In addition to the foregoing fines, the person shall be liable to the Village for a sum equal to the value or partial value of any public tree lost as a result of the violation. The value or partial value of the tree lost shall be as determined by reference to the reasonable cost of replacement of the tree as set forth in a current publication of the International Society of Arboriculture, if available, or otherwise based on at least two written price quotes procured from area nurseries.
- (B) A separate offense shall be deemed committed: (i) on each day during or on which a violation occurs or continues, and (ii) with respect to each public tree or covered private tree adversely affected by the unlawful conduct.
- (C) Fines and fees assessed pursuant to this chapter shall be payable to the Village. Fees assessed and collected pursuant to Section 155.999(A)(2) shall be deposited into the Tree Fund administered by the Village in accordance with the Tree Preservation Ordinance.

(Ord. (O)2023-06.35, passed 06-22-2023)