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## Chapter 5 TREE PRESERVATION

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### **5-5-1: TITLE:**

This chapter shall be known, cited and referred to as the *RIVERWOODS TREE PRESERVATION ORDINANCE*. (Ord. 03-6-7, 6-3-2003)

### **5-5-2: INTENT AND PURPOSE:**

While allowing for reasonable improvement of land within the village, it is the stated public policy of the village to maintain, to the greatest extent possible, existing trees within the village and to add to the tree population within the village, where possible. The preservation of existing trees in the village and the planting of additional trees is intended to accomplish, where possible, the following objectives:

- A. To preserve trees as an important public resource enhancing the quality of life and the general welfare of the village and enhancing its unique character and physical, historical, and aesthetic environment;
- B. To preserve the essential character of those areas throughout the community which are heavily wooded and in a more natural state;
- C. To enhance and preserve the air quality of the village through the filtering effect of trees on air pollutants;

D. To reduce noise within the village through the baffle and barrier effect of trees on the spread of noise;

E. To reduce topsoil erosion through the soil retention effect of tree roots;

F. To reduce energy consumption through the windbreak and shade effects of trees when they are properly placed on the lot;

G. To preserve and enhance nesting areas for birds and other wildlife which in turn assist in the control of insects;

H. To reduce storm water runoff and the costs associated therewith and replenish ground water supplies; and

I. To protect and increase property values. (Ord. 03-6-7, 6-3-2003)

### **5-5-3: DEFINITIONS:**

**CALIPER:** The caliper measurement of a trunk of a tree in accordance with "American Standard For Nursery Stock", ANSI Z-60.1, latest edition, published by the American Nursery and Landscape Association.

**CRITICAL ROOT ZONE:** The area inscribed by an imaginary circular line on the ground beneath a tree having as its center point the center of the trunk of the tree and a radius equal to one foot (1') for every inch of DBH.

**DAMAGE:** The taking of any direct or indirect action that causes, or is reasonably likely to cause, the death of a tree or a significant loss of a tree's structural integrity including, without limitation, destruction, poisoning, carving, mutilating, girdling, severing the main trunk, leader, or large branches or roots, removing any portion of the bark from the main trunk, leader, or large branches, touching with live wires, crushing or exposing the roots, digging or drilling any hole or trench within the critical root zone, filling with soil or other materials within the critical root zone, compacting a substantial portion of the soil in the critical root zone, or moving a tree to another location. Without limitation of the foregoing, "damage" does not include the pruning of trees in accordance with "Standard Practices For Tree, Shrub, And Other Woody Plant Maintenance" (ANSI A300) and "Tree-Pruning Guidelines" published by the International Society of Arboriculture or similar standards and guidelines from time to time recommended for residents of the village by the village forester.

**DIAMETER AT BREAST HEIGHT ("DBH"):** The diameter of the trunk of a tree measured in inches at a point four and one-half feet (4<sup>1/2</sup>') above the existing grade at the base of the tree.

**HIGHLY DESIRABLE TREE:** Any tree located in the village that is one of the following species: *Acer saccharum* (sugar maple), *Carya* spp. (hickory species), *Capinus caroliniana* (blue beech), *Celtis occidentalis* (hackberry), *Ostrya virginiana* (ironwood), or *Quercus* spp. (oak species).

**OWNER:** The person or entity legally or beneficially owning real estate in the village undertaking any actions with respect to protected trees on such real estate which are regulated by the provisions of this chapter. The term "owner" shall include the family members, guests, tenants, licensees, contractors, agents, officers, directors, shareholders and employees of the person or entity legally or beneficially owning the real estate in question under the provisions of this chapter.

**PROTECTED TREE:** Any tree located in the village having a caliper of two inches (2") or greater excluding the species *Rhamnus cathartica* (common buckthorn).

**REMOVE OR REMOVAL:** The physical detachment or elimination of a tree, or the effective detachment or elimination of a tree, through damage, cutting of major vegetation to the ground, complete extraction or killing by spraying, girdling, root cutting, or otherwise. Without limitation of the foregoing, "remove" or "removal" does not include the pruning of trees in accordance with national pruning standards.

**TREE:** A self-supporting, woody plant, together with its root system, having a well defined stem or trunk or a multistemmed trunk system, a more or less well defined crown, and a mature height of at least eight feet (8'). "Tree" shall not include trees in containers or nursery stock trees maintained for resale.

**TREE EMERGENCY:** The existence of any tree within the village that has become an immediate danger or hazard to persons or property as a result of any tornado, windstorm, flood, freeze, or other natural disaster.

**TREE PERMIT APPLICATION:** The application required for issuance of a tree removal permit pursuant to section [5-5-4](#) of this chapter.

**TREE REMOVAL PERMIT:** The written permit issued by the village to authorize the removal of a protected tree pursuant to the provisions of this chapter.

**TREE REPLACEMENT PLAN:** The written plan submitted by an owner to the village pursuant to this chapter under which the owner becomes obligated to replace protected trees for which removal is sought at a rate and subject to such terms and conditions as shall be specified in the plan.

**VILLAGE FORESTER:** The employee or consultant of the village of Riverwoods who is a trained forester/arborist and is designated to act as village forester.

**WOODLAND:** An area of deciduous trees covering an area of ten thousand (10,000) square feet or more in which thirty percent (30%) or more of the trees have a DBH of three inches (3") or greater, or a grove of deciduous trees consisting of eight (8) or more trees having a twelve inch (12") or greater DBH. (Ord. 03-6-7, 6-3-2003; amd. Ord. 04-9-9, 9-7-2004)

#### **5-5-4: PERMIT REQUIRED, TREE REPLACEMENT OR MITIGATION REQUIRED FOR REMOVAL OF PROTECTED TREES:**

- A. Unless otherwise specifically authorized in this code, it shall be unlawful for any owner without a tree removal permit from the village to damage or remove any protected tree. Any owner who knowingly authorizes anyone to damage or remove any protected tree on such owner's land

shall also be responsible for the damage or removal of such protected tree, notwithstanding that the damage or removal was performed or caused by another person acting under the authority of such owner. Any owner who removes one or more protected trees without a tree removal permit or in violation of a tree removal permit shall be required to apply retroactively for a tree removal permit on the basis of the applicable conditions of subsection C of this section. Any owner who removes or damages one or more protected trees shall be required to prepare and obtain approval of a tree replacement plan to mitigate the removal or damage to such protected trees.

B. If an owner seeks a tree removal permit, the application for such tree removal permit shall contain:

1. Name and address of the owner;
2. Commonly known address of the owner's property where the removal shall occur;
3. A written statement indicating the reason for the removal;
4. A general description of all protected trees to be removed, including species, size, condition and location on the property;
5. A site development plan containing all or a portion of such details as may be specified or required for such plans under section [8-5-4](#) of this code, if requested by the village forester to allow full and fair consideration of the tree removal permit application;
6. If requested by the village forester, a tree survey overlaid directly upon the site development plan, showing the DBH of all protected trees. The survey shall distinguish among trees to be preserved, transplanted or removed. Groups of trees that are less than three inches (3") apart may be designated by clumps, provided that all protected trees must be individually depicted. The village forester may permit the owner to exclude areas of the site from the tree survey if he or she determines that the proposed construction or other activity will not impact those areas;
7. Name and address of the contractor or other person who is proposed as having responsibility for tree removal;
8. A tree replacement plan (if applicable) if the application is based on the presentation of such plan under subsection C8 of this section;
9. Such other data and information as the village shall deem necessary to allow full and fair consideration of the tree removal permit application; and
10. A tree removal permit application fee in the amount established in the annual fee ordinance; provided, however, no fee shall be required if an application is approved for removal of a protected tree for the reasons provided in one of subsection C1, C2, C3, C4, C5, C6 or C7 of this section.

C. Upon receipt of the owner's application, the village forester shall visit and inspect the owner's property and contiguous and adjoining lots in order to evaluate the application. Subject to

compliance with other applicable provisions of this code, the village forester shall approve the application and issue a tree removal permit if, based on his site inspection, one or more of the following conditions is present:

1. The tree is not a protected tree;
2. The protected tree must be removed because it is dead, dying or diseased;
3. The protected tree is weakened by disease, age, fire, storm or other natural causes such that it is likely to die or become diseased;
4. The protected tree constitutes a hazard to pedestrian or vehicular traffic;
5. The protected tree constitutes a hazard to a building;
6. Removal of the protected tree is consistent with good forestry practices;
7. The protected tree to be removed is located within the footprint of a principal building on a lot, which had previously never been improved with buildings of any kind; or
8. Removal of the protected tree will be substantially mitigated, as determined by the village forester, as a result of the implementation of the owner's tree replacement plan. The village forester shall take into account the following factors in assessing the degree to which removal of a protected tree will be substantially mitigated:
  - a. The size, health, species and other matters relating to the excellence of the protected tree;
  - b. The number of protected trees for which removal is sought on the lot in question;
  - c. The extent of impervious surface covering the lot, both before and after the proposed removal as a result of the addition of new decks, patios, tennis courts and other improvements constituting impervious surface;
  - d. The relative amount of remaining protected trees and other natural wooded environment in the areas adjoining the lot in question and the degree of natural screening, both before and after the proposed removal;
  - e. The degree to which the implementation of the tree removal plan will encourage and promote the objectives of this chapter in a manner which is proportionate to the loss resulting from the proposed removal, after considering the entirety of development on the lot which has occurred and is proposed to occur. A tree removal permit shall be issued only in the event the village forester finds that all reasonable efforts have been undertaken by the owner to preserve existing protected trees. (Ord. 04-9-9, 9-7-2004)

### **5-5-5: DUTY TO REMOVE AND REPLACE TREES:**

- A. Removal: Any owner or agent acting pursuant to a tree removal permit shall remove the protected trees identified in such permit in accordance with the terms and conditions set forth in the tree removal permit. An owner receiving a tree removal permit pursuant to subsections [5-5-4C1](#), C2,

C3, C4, C5, C6 and C7 of this chapter shall remove the protected trees identified in such permit within thirty (30) days after the date of the tree removal permit. An owner receiving a tree removal permit pursuant to subsection 5-5-4C8 of this chapter shall adhere to the schedule for removal of such protected trees set forth in the tree replacement plan.

- B. Replacement: An owner receiving a tree removal permit pursuant to subsection 5-5-4C8 of this chapter shall have a duty to replace protected trees in accordance with the tree replacement plan. Replacement of protected trees shall be made within six (6) months of the date of issuance of the tree removal permit. An extension of time may be granted by the village forester upon request, provided, however that no such extension shall exceed twelve (12) months from the original date of issuance of the permit.
- C. Tree Replacement Plan: A tree replacement plan for the replacement of protected trees when required by this chapter shall provide for the planting of new trees of species and at locations approved by the village forester and for a program of watering and maintenance to ensure that the new plantings will become established; provided, however, tree replacement plans shall provide for the planting of highly desirable trees in equal trunk diameter to that of the highly desirable trees removed by the owner or, if such replanting is not feasible, then to the greatest extent feasible in accordance with sound horticultural practices, as approved by the village forester. If more than fifteen percent (15%) of the critical root zone of any protected tree will be damaged as result of proposed construction on an owner's property, then notwithstanding the intent of the owner to preserve such protected tree, it shall nevertheless be the duty of such owner to provide for the replacement of protected tree in the tree replacement plan. Any owner required to make replacements for a protected tree shall make all such replacements at a rate of one inch (1") in caliper of newly planted trees for each one inch (1") in trunk diameter of the removed trees (measured by caliper or DBH, as appropriate), and the trunk size of the newly planted trees shall be a minimum of one and three-quarters inches (1<sup>3</sup>/<sub>4</sub>" ) caliper.

Notwithstanding the foregoing duty to provide replacement trees, if the village forester determines that: 1) replacing trees at the full replacement rate would result in the unreasonable crowding of trees upon the lot or would not otherwise be consistent with good forestry practices, or 2) after taking into account any extenuating circumstances, undue hardships would result from the strict application of the requirements of this chapter, then, in lieu of providing replacement of trees at the required replacement rate, the tree replacement plan may be modified to require the owner: 1) to replace trees at the highest practical replacement rate under the circumstances and 2) to pay a tree replacement mitigation fee assessed on each one inch (1") in trunk diameter of removed trees (measured by caliper or DBH, as appropriate) that are not being replaced at the full replacement rate that would otherwise be applicable. The tree replacement mitigation fees shall be in the amounts set forth in the village's fee schedule, as amended from time to time. (Ord. 04-9-9, 9-7-2004)

### **5-5-6: TREE EMERGENCIES:**

- A. If a tree emergency shall occur, such that there arises a risk of imminent danger or hazard to persons or property from any protected tree which ought to be cut or removed immediately or with as little delay as possible (i.e., protected trees which threaten to fall or have fallen on houses or power lines or block safe passage of streets or have become uprooted or unstable as

a result of severe weather, floods or high winds), then it shall be lawful for the owner to remove such protected tree, to the extent necessary to avoid immediate danger or hazard, without a tree removal permit; provided that within five (5) days after taking any such action, the owner shall complete relevant portions of the tree permit application describing the tree emergency and the actions taken.

B. If the village forester, upon his review of the tree permit application, concurs that the owner's actions were warranted, no further action under these regulations shall be necessary, but if the village forester determines that no genuine tree emergency existed to justify the cutting or removal of the protected tree(s), then such actions by the owner shall be deemed a violation of these regulations. (Ord. 03-6-7, 6-3-2003)

### **5-5-7: APPEALS:**

An owner may appeal in writing to the village board of any decision made by the village staff under the provisions of this chapter within thirty (30) days of such decision being rendered. (Ord. 03-6-7, 6-3-2003)

### **5-5-8: PENALTY:**

Whoever violates any of the provisions of this chapter shall be punished by a fine of up to seven hundred fifty dollars (\$750.00) for each such violation, and a separate and distinct violation shall be deemed to have occurred for each protected tree unlawfully removed and/or not replaced in violation of this chapter, and a separate and distinct violation shall be deemed to have occurred for each day that such violation exists. (Ord. 03-6-7, 6-3-2003)

### **5-5-9: TREE PLANTING PROGRAM:**

To encourage the conservation and planting of protected trees, the village forester, as requested by the village board, shall prepare tree reforestation plans for areas within the village and shall establish eligibility standards under which residents of the village shall also be permitted to submit tree reforestation plans for their lots. Tree reforestation plans shall provide for the reforestation of the village of Riverwoods and the restoration of damaged woodland habitat by protecting, preserving and planting those species of trees that constitute protected trees and by providing for the elimination of nonnative species. Tree reforestation plans may include the removal of invasive, noxious or nonindigenous trees, plants and weeds, such as buckthorn and garlic mustard, that interfere with the health, conservation and expansion of the oak-hickory hardwood forest and other protected trees that constitute the indigenous and desirable woodland habitat for the village. The development and implementation of tree reforestation plans shall be undertaken as the Riverwoods tree planting program, pursuant to 65 Illinois Compiled Statutes 5/11-73.1-2 (2000 state bar edition). To promote such tree reforestation plans, the village may enter into long term contracts of ten (10) years or less with tree nurseries and landscape contractors for the purchase of nursery tree stock and for the planting thereof, and the village may enter into cost sharing agreements with residents of the village who have submitted and obtained approval for tree reforestation plans. Under such cost sharing agreements, the village may agree to pay for or subsidize all or a portion of the cost of purchasing or planting trees. All tree replacement mitigation fees paid for replacement of protected trees shall be deposited in an account to be known as the "Riverwoods tree planting program account" and used solely to promote the purposes of the Riverwoods tree planting program; provided, that the foregoing provision shall not preclude the village from using any lawfully available funds of the village for the purpose of defraying the costs of the Riverwoods tree planting program.

Notwithstanding the foregoing provisions of this section, no owner shall be eligible to receive any funds from the Riverwoods tree planting program to pay or be reimbursed for any costs incurred or to be incurred by such owner to comply with the requirements of any tree replacement plan approved by the village. (Ord. 03-6-7, 6-3-2003)