

## CHAPTER 7

### TREES

#### URBAN FOREST

- Sec. 7-100 Findings and purpose.**
- Sec. 7-110 Trees included.**
- Sec. 7-120 Permit required.**
- Sec. 7-130 Permit standards.**
- Sec. 7-140 Appeals.**
- Sec. 7-150 Appeals procedures.**
- Sec. 7-160 Factors considered on appeal.**
- Sec. 7-170 Trees in public right-of-way.**
- Sec. 7-180 Penalties.**
- Sec. 7-190 Remedial action.**

#### **Sec. 7-100 Findings and Purpose.**

The Village Council finds that it is in the interest of the village and its residents to protect, preserve and promote the village tree canopy. This tree canopy is part of a larger ecosystem and contributes significantly to air, noise and visual pollution control. The existence of shade-providing trees moderates climatic extremes and promotes sound energy conservation. The Village urban forest is part of a watershed and therefore, plays an important role in controlling water run-off and supporting the biologic and hydrologic integrity of the area. The tree canopy also has significant aesthetic value, which affects property values and the quality of life of our community. Regulation of actions affecting the tree canopy provides mutual benefits to village residents and property owners.

#### **Sec. 7-110 Trees included.**

The chapter (except for Section 7-170 below) shall apply to trees on private property with trunks that measure at least twenty-four (24) inches in circumference at four and one-half (4 1/2) feet above ground level. If a tree divides into branches at less than four and one-half (4 1/2) feet, the trunk shall be measured immediately beneath the dividing point. This chapter shall also apply to trees, regardless of size, that were planted pursuant to a reforestation contained in a decision granting a permit under Section 7-130.

#### **Sec. 7-120 Permit required.**

(a) No person shall remove or destroy, or cause the removal or destruction of a tree or undertake any action that will substantially impair the health or growth of a tree without first obtaining a permit from the village manager. No permit shall be required for normal and reasonable trimming or other tree care designed to maintain the health, shape or balance of a tree

or in an emergency.

Amended January 10, 2012

- (b) In the case of any building permit application submitted for the purpose of new construction or construction or development on the property that expands the existing footprint of any building or structure, the following procedure shall apply:
  - (1) The property owner shall submit a Tree Protection Plan for review and approval by the Village before any tree removal and before a building permit will be approved. As part of any approval of the Tree Protection Plan, the Village Manager shall inform the applicant that, the Village requires, at a minimum, the planting of replacement trees on a mandatory basis of one (1) replacement tree for each tree removed.
  - (2) The Tree Protection Plan shall be a part of, and considered with the building permit application, governed by the procedures for building permit applications, and, if approved, shall be incorporated by reference into the building permit issued for the new construction or development.

Amended January 10, 2012

**Sec. 7-130 Permit standards.**

- (a) The Village Manager is authorized to issue a permit only if one (1) of the following conditions applies:
  - (1) The tree is diseased beyond restoration, insect infested beyond restoration, or injured beyond restoration;
  - (2) The tree is dead or dying, or is in danger of falling;
  - (3) The tree constitutes a hazard to the safety of persons;
  - (4) The tree constitutes a hazard and threatens injury to property;
  - (5) The tree constitutes a hazard and threatens injury to, or would have a negative effect on the health of other trees;
  - (6) The tree is injurious to or creates a condition injurious to the health of a person certified to by a qualified medical practitioner.
  - (7) A permit may be granted by the Manager for removal of any tree provided that the tree in question would not qualify for preservation under Sec. 7-160 (g) and provided that it will be replaced by a tree of three inch caliper

with similar growth and canopy potential.  
Amended January 10, 2012

(b) If the Village Manager determines that none of the above conditions applies, he/she shall deny the permit. The Manager is authorized to consult with experts concerning any of the above conditions.

(c) The Village Manager will provide a response within seven (7) days on permit applications.

**Sec. 7-140 Appeals.**

(a) An applicant who is denied a permit by the Village Manager may appeal the manager's decision to the Village Council in writing within fourteen (14) days of the Village Manager's denial of the application for a permit.

(b) The Village Council shall have the authority to permit the removal or destruction of a tree or the undertaking of any action that will substantially impair the health or growth of a tree if the Council finds that such removal, destruction or other action will not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties and can be permitted without substantial impairment of the purpose and intent of this chapter.

**Sec. 7-150 Appeals procedures.**

(a) Upon the filing of an appeal, the Village Manager shall forthwith transmit to the Council the record pertaining to the appeal. The Village Manager shall give written notice of the hearing on the appeal to the applicant and all abutting property owners. Said notice shall be provided to such persons at least fourteen (14) days prior to the meeting at which the appeal is to be considered. In addition, the property shall be posted with a sign which shall include the case number, the nature of the application and the date, time and place of the hearing. The sign shall be located so as to be readable from the roadway abutting the property and should be placed five (5) feet from the sidewalk, if one exists, or five (5) feet from the curb or the edge of the paved portion of the street if there is no curb. In the case of lots abutting more than one (1) street, a sign shall be posted for each abutting street.

(b) At the hearing, any resident may appear in person or by agent or by attorney. A decision by the Council shall be made within sixty (60) days following the hearing.

(c) In exercising its powers, the Council may affirm the denial of a permit, may direct the Village Manager to issue a permit, or may direct the Manager to issue a permit upon such conditions, terms, or restrictions as the Council may deem necessary consistent with section 7-104(b) hereof.

(d) The Council shall keep minutes of all appeal hearings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the Village Manager and shall be public record.

**Sec. 7-160 Factors considered on appeal.**

The Village Council shall consider the following factors in deciding whether to approve, disapprove or modify the decision of the manager:

- (a) Those specified in section 7-140 above if relevant to the appeal;
- (b) The reasons cited by the applicant for wanting to remove or destroy the tree;
- (c) The reasons, if any, cited by residents who are either in favor of or in opposition to the issuance of the permit;
- (d) Whether tree clearing is necessary to achieve proposed development, construction or land use otherwise permitted under the Village Code, and the extent to which there is no reasonable alternative;
- (e) Whether the applicant proposes reforestation;
- (f) Hardship to the applicant if a permit for the requested action is denied;
- (g) The desirability of preserving a tree by reason of its age, size or outstanding qualities, including uniqueness, rarity or species specimen;
- (h) Such relevant matters as will promote fairness and justice in deciding the particular case.

**Sec. 7-170 Trees in public right-of-way.**

No person shall remove or destroy, or cause the removal or destruction of a tree or undertake any action that will substantially impair the health or growth of a tree of any size or description in the public right-of-way without first obtaining a permit from the Village Manager, whose decision to issue or deny the permit shall be governed by the requirements of state law and relevant village right-of-way agreements.

**Sec. 7-180 Penalties**

The village may institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this chapter in any court of competent jurisdiction.

**Sec. 7-190 Remedial Action.**

- (a) Whenever the Village Manager or designee finds that any person is in violation of this chapter or is failing to comply with the terms and conditions of a permit issued pursuant to this chapter, in whole or part, he/she may issue an order to stop the removal of or damage to the tree, unless the Village Manager determines that stopping such work would threaten the public safety.
- (b) Continuing work in violation of an order issued pursuant to this Section by the Village Manager or designee shall constitute a misdemeanor, and upon conviction shall be punishable by a fine in the maximum amount permitted by law.
- (c) The village may institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this chapter in any court of competent jurisdiction.

Enacted June 10, 2003