

McHenry

ARTICLE C: TREE PRESERVATION

Section

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The tree preservation requirements specified herein are intended to foster aesthetically pleasing development that will protect and preserve the appearance, character, general health, safety and welfare of the community and enhance property values. Specifically, these regulations are intended to increase the compatibility of adjacent uses by preserving natural areas that become buffers between uses and in doing so, minimize the harmful impact of noise, dust and other debris; motor vehicle headlight glare or other artificial light intrusions, and other objectionable activities or impacts conducted or created by adjoining or nearby uses; reduce topsoil erosion and stormwater runoff; reduce energy consumption through windbreak and shade; and preserve nesting for birds and wildlife.

(1987 Code § 24-40)

8-3C-2: GENERAL SCOPE AND APPLICABILITY:

A. Specified: The provisions of this article shall apply to the following private parcels of land:

1. Any subdivision of land in any zoning district resulting in the creation of three (3) or more lots;
2. All Single-Family Residentially zoned lots larger than two (2) acres;
3. All property zoned other than Single-Family Residential, larger than one acre;
4. All areas seeking annexation to the City.

B. Exceptions: Exceptions include nurseries or orchards.

(1987 Code § 24-41)

8-3C-3: TREE REMOVAL PERMIT REQUIRED:

A. Permit Required: No live tree measuring six inches (6") in diameter at breast height (dbh) or greater, shall be removed from properties outlined in section 8-3C-2 of this article without first obtaining a tree removal permit from the Parks and Recreation Department. For purposes of this article, dbh shall be considered to represent height of fifty four inches (54") above the base of the tree.

B. Exceptions:

1. **Emergency:** A tree removal permit is not required when removal is necessary due to an emergency situation posing an immediate threat to a person, property or the community, and where such an emergency renders compliance with the permit process unreasonable. The individual who removes the tree shall first attempt to call the Parks and Recreation Department to obtain field permission to remove the tree. If permission cannot be obtained due to unavailability of the Parks and Recreation staff, the tree may be removed, provided the person removing the tree notifies the Parks and Recreation Department within forty eight (48) hours of the removal of the tree and the reason for its removal.

2. **Measurement:** Where no tree on the parcel of land measures six inches (6") dbh as verified by City staff.

3. **Prior Plan:** Properties for which a specific landscaping or tree preservation plan has been approved prior to the effective date of this article pursuant to the terms of an annexation agreement or other specific agreement or ordinance applicable to such property.

(1987 Code § 24-42)

8-3C-4: FEE FOR PERMIT:

The fee for a tree removal permit shall be seventy five dollars (\$75.00), payable upon the submittal of a tree removal permit application.

(1987 Code § 24-49)

8-3C-5: CONSIDERATION OF APPLICATION:

In connection with a site development permit, the Director of Community Development and the City Arborist shall review the tree survey and tree preservation plan and either approve or deny the application.

A. **Connected With Subdivision:** In connection with a subdivision, the Planning and Zoning Commission and the City Arborist shall review the tree survey and preservation plan and make a recommendation to the City Council for approval or denial.

B. **No Subdivision:** Where no subdivision of land or site development permit is required, the City Arborist shall review the tree survey and preservation plan and make a recommendation to the City Council through the Director of Parks and Recreation for approval or denial.

(1987 Code § 24-43; amd. 2019 Code)

8-3C-6: SUBMITTAL REQUIREMENTS FOR PERMIT:

A. **Private Structures, Property:** Any person requiring a tree removal permit due to development, redevelopment, subdivision, new construction, expansion, structural alteration or other improvement to private structures or property shall submit the following information to the City Arborist.

(1987 Code § 24-44; amd. 2019 Code)

1. A tree survey which shall consist of a plat of survey indicating the location, size and botanical and common name of all trees located on the parcel with a six inch (6") dbh or greater. The tree survey shall also include all proposed structures and impervious areas and identify those trees for removal.

2. A written statement indicating the reasons for removal of tree(s).

3. A tree preservation plan which is the tree survey, including a designation in plan form of the trees that are to be preserved and protected. The plan should include methods and procedures to be used for tree protection.

B. **No Site Development Parcel:** Any person requiring a tree removal permit on a parcel not undergoing site development, subdivision, or any work involving a building permit, the following

information must be provided:

1. A plat of survey of the parcel. The location, size and species of tree(s) to be removed shall be noted on the survey as accurately as possible.
2. A written statement indicating the reasons for removal of the tree(s).
3. Reasons for tree removal related to disease or good forestry practices may require justification in writing by a certified arborist.

(1987 Code § 24-44)

8-3C-7: TREE REMOVAL CONDITIONS:

When a person desires to remove a tree on a parcel of land covered under section 8-3C-2, "General Scope And Applicability", of this article, whether it is part of a site development or not, such removal shall be deemed justified where one or more of the following conditions are clearly demonstrated by the person seeking a tree removal or site development permit:

A. **Safety Hazard:** A tree creates a safety hazard to pedestrians, vehicle traffic, structures or utilities, or a threat to public safety.

B. **Diseased, Weak:** The tree is incurably diseased or has been severely weakened by age, storm, fire or other natural disaster.

C. **Good Forestry Practice:** Good forestry practice requires removal. Said forestry practice includes such considerations as to the number of healthy trees a given parcel of land will support.

D. **Replacement Schedule:** These trees are subject to the following tree replace schedule: five percent (5%) of the total diameter at breast height (dbh) will be required as compensation for removal (e.g., the total dbh of the trees listed below is 2,400 inches x 0.05 (5 percent) = 120 inches of replaceable diameter. 120 inches of diameter divided by the diameter of the replacement trees = the number of trees).

Common Name	Botanical Name
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Black locust	Robinia psuedo-acacia
Box elder	Acer negundo
Catalpa	Caltalpa speciosa
Chinese elm	Ulmus parvifolia
Choke cherry	Prunus virginiana
Cottonwood	Populus deltoides
Lombardy poplar	Populus nigra
Mulberry	Morus rubra
Poplar	Populus (species)
Siberian elm	Ulmus pumila
Silver maple	Acer saccharinum
Tree-of-heaven	Ailanthus altissima
Willow	Salix (species)

(1987 Code § 24-45)

8-3C-8: TREE PRESERVATION PLAN CRITERIA:

Following is the criteria for approving a tree preservation plan:

- A. General design.
- B. Planting specifications.
- C. Extent of existing tree coverage and consideration that reasonable efforts are being taken to retain existing trees.
- D. Techniques for the preservation and protection of existing trees during construction.
- E. Ratio of nondeciduous to deciduous trees.
- F. Provisions for replacing destroyed or damaged trees and the planting of additional trees where desirable.
- G. General environmental considerations.

(1987 Code § 24-46)

8-3C-9: TREE PROTECTION RIGHTS:

The following tree protection techniques shall be employed during any work conducted on the site. The tree preservation plan shall specify the following:

- A. Encroaching Within Drip Line: All grading and construction equipment shall not encroach within the drip line of a tree.
- B. Harmful Materials: Crushed limestone, hydrocarbons and other materials detrimental to trees shall not be placed within the drip line of any tree being preserved, nor at any higher location where drainage toward the tree could affect the health of the tree.
- C. Fencing: Appropriate protective fencing shall be temporarily installed at the periphery of the tree's drip line throughout the duration of site development and construction activities.
- D. Construction Debris: The area within the drip line of the trees shall remain free of building materials, dirt, fill and construction debris.
- E. Methods Specified; Other Considerations: Methods used to preserve trees shall be clearly specified. Methods other than outlined in this section may be considered if demonstrated to be in keeping with good forestry practice and maintaining the highest viability.
- F. Notification To City: The owner/developer must notify the Community Development Department forty eight (48) hours prior to work being performed within areas under protection as indicated on the approved Tree Preservation Plan.

(1987 Code § 24-47)

8-3C-10: REPLACEMENT SCHEDULE:

A. Specified: Trees removed, whether or not due to construction, site development or subdivision of land, shall be replaced according to the following schedule:

TREE(S) REMOVED

Caliper (In Inches dbh)	Number Of Replacement Trees
30" or greater	3
18" - 29"	2
6" - 17"	1

B. Minimum Caliper: All replacement trees shall have a minimum caliper of two inches (2") measured at six inches (6") above the base of the tree.

C. Species: Replacement trees shall be limited to the following species or as determined by the approving authority:

All trees listed as permitted street trees	
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American hornbeam	Carpus coroliniana
American larch	Larix laricina
Amur maple	Acer ginnala
Bald cypress	Taxodium distichum
Basswood	Tilia Americana
Bitternut hickory	Carya cordiformis
Black Hills spruce	Piceu glance densata
Black oak	Quercus Velutina
Black tupelo	Nyssa sylvatica
Black walnut	Juglaus nigra
Burr oak	Quercus macrocarpa
Catalpa	Catalpa speciosa
Chesnut oak	Quercus prinus
Chinkapin oak	Quercus muehlenbergii
Common horsechestnut	Aesculus Hippocastenum
Dawn redwood	Metasequoia glyptostroboides
Douglas fir	Pseudosuga menziesii
Eastern red cedar	Juniperus virginiana
Eastern white pine	Pinus strobus
English oak	Quercus robur
European black alder	Alnus glutinosa
European larch	Larix decidua
Flowering crabs	Malus supp.
London planetree	Platanus cerifolia
Magnolia, cucumber tree	Magnolia acuminate
Magnolia, saucer	Magnolia x soulangiana
Magnolia, star	Magnolia stellata
Norway maple	Acer platanoides
Norway spruce	Picea abies
Ohio buckeye	Aesculus glabra
Pagoda dogwood	Cornus alternifolia
Paperbank maple	Acer griseum

Pear, callery	Pyrus calleryana
Red mulberry	Morus rubra
Red oak	Quercus rubra
Riverbirch	Betula nigra
Sawtooth oak	Quercus acutissima
Scarlet oak	Quercus coccinea
Shagbark hickory	Carya ovata
Shingle oak	Quercus imbricaria
Swamp white oak	Quercus bicolor
Sweetgum	Liquidambar styraciflua
Swiss stone pine	Pinus cembra
Tulip tree	Liriodendron tulipifera
White cedar	Thuja occidentalis
White oak	Quercus alba
White spruce	Picea glanca
Whitespire birch	Betula platyphylla 'whitespire'
Zeklova, Japanese	Zelkova serrata

D. Insufficient Space: In keeping with good forestry practice, if sufficient space is not available to plant replacement trees, the owner/developer shall pay the City the current replacement cost using the regional cost per square inch of trunk area (cross section) to determine actual tree value. This information is found in the International Society of Arboriculture's Guide for Plant Appraisal Ninth Edition (or most recent edition) and by using the Illinois Arborist Associations Guide for Species Ratings and Appraisal Factors for Illinois-Region A for each tree not planted in compliance with the replacement schedule. Said amount is to be utilized for tree planting or tree preservation programs operated by the City.

(1987 Code § 24-48)

8-3C-11: PENALTY:

Any person, firm or corporation that violates any provision of this article shall be subject to a fine according to the Fines and Penalties found in Title 15, Chapter 1: Fines and Penalties, plus the City's cost of prosecution, including reasonable attorney fees. Each day that a violation exists and a tree removal permit is not obtained shall constitute a separate offense. Further, a separate offense shall be deemed committed for each tree injured, removed, destroyed or for any undertaking of any procedure, the result of which is to cause the death or substantial destruction of any tree within the City, having a dbh of six inches (6") or greater.

(1987 Code § 24-50) (amd. Ord. 22-40, 6-20-2022)