

ARTICLE II. - TREE PRESERVATION

Sec. 29-16. - General regulations.

(a) *Unlawful to damage or remove a tree.*

- (1) It shall be unlawful for any person to Damage any tree within the Village. It shall be unlawful for any person to remove any tree located upon any public property within the Village, unless expressly authorized by a right-of-way permit as provided for in chapter 20 of the Village Code, which may be denied to preserve any tree. It shall be unlawful for any person to remove any tree not located on public property, without first obtaining a Tree Removal Permit from the Village, except as otherwise authorized by this chapter. The property owner, property owners of a Jointly Owned Tree, and any agent of the property owner or owners violating this article shall be jointly and severally liable.
- (2) The provisions of this chapter do not apply to any Governmental Entity Removing a tree from their own property, property that is leased by a Governmental Entity, or for property when the use of that property is granted to a Governmental Entity pursuant to an easement, license or similar grant of authority.
- (3) The provisions of this chapter do not apply to public utilities when a tree is located in a public utility easement on private property and the removal of the tree is necessary to the operation of the utility. Trees located in a public utility easement shall not be removed without a right-of-way permit (or the appropriate permit as determined by the Village Engineer and Director) or as otherwise authorized in a franchise agreement. All tree-trimming and vegetation control performed by a utility shall be performed to the standards set forth in chapter 20.
- (4) The provisions of this Chapter do not apply to the Village of Wilmette when the Village is removing a tree from public property.

(b) *Tree removal permits.* When a Tree Removal Permit is required by this chapter or any other part of the Village Code, prior to the issuance of a Tree Removal Permit, an applicant shall:

- (1) Submit the following information on an application form to be provided by the Village:
 - a. The address of the property where the tree is to be removed;
 - b. The name, phone number, and email address of the property owner where the tree is to be removed;
 - c. The name, address, phone number and email address of the entity and/or individual that will be removing the tree;
 - d. Provide a description of the:
 - i. The species or common name of the tree to be removed;

- ii. Location of the tree to be removed which, in the opinion of the Director, may be required to be depicted upon a Plat of Survey or another document acceptable to the Director,
 - iii. The DBH of the tree to be removed, and
 - iv. A photographic documentation of the tree to be removed.
- (2) Pay the required Tree Removal Permit Fee of \$75.00 per tree to be removed, which shall be in addition to the fee in lieu and any other fees or costs required by the Village;
- (3) When required by this article, shall pay the required fee in lieu, which shall be in addition to the Tree Removal Permit Fee and any other fees or costs required by the Village;
- (4) When required by this article, submit at the time the application is filed, a Certificate, a Tree Survey, and proof of Neighbor Notification; and
- (5) Determine and disclose if the tree is a Jointly Owned Tree. Prior to the issuance of a Tree Removal Permit for a Jointly Owned Tree, the express authorization to remove the Jointly Owned Tree from all the owners of the Jointly Owned Tree shall be submitted to the Village as part of the application for the Tree Removal Permit.
- (c) *Neighbor notification.* When there is a requirement for Neighbor Notification, an applicant shall provide notice of the removal to the property owners of the following properties:
- Any contiguous property;
 - The property or properties directly on the other side of the street; and
 - The property directly on the other side of the alley
- In the form to be provided by the village. Proof of said notice, by means of a signed affidavit form, shall be submitted at the time the application is filed. Neighbor Notification shall be required in addition to any other notice required by the appendix A of the Village Code.
- Neighbor Notification shall be provided at least five business days prior to the removal of any trees.
- (d) *Replacement trees and fee in lieu.* When a Protected Tree or a Heritage Tree is removed, the applicant shall plant the required number of Replacement Trees, or if authorized by the Director, pay the fee in lieu or a combination thereof as provided for below.
- (1) The following Table 1 shall be used to determine, based upon the size of the Protected Tree, Undesirable Tree, and Ornamental Tree Removed, the required number of Replacement Trees to be planted on the property where the Protected Tree was removed or the fee in lieu, or a combination thereof. Any fee in lieu authorized to be paid by the applicant shall be in addition to any other fees or costs charged by the Village.

Table 1**Protected Trees (including Undesirable Trees)**

Size of Tree Removed (DBH)	Replacements Trees	Fee in Lieu
Greater or equal to 10" but less than 12"	2	\$1,000
Greater or equal to 12" but less than 16"	3	\$1,500
Greater or equal to 16" but less than 20"	4	\$2,000
Undesirable Trees equal to or greater than 20"	4	\$2,000
Ornamental Trees		
Greater or equal to 6" but less than 12"	1	\$500
Greater or equal to 12"	2	\$1,000

- (2) Based upon the size of the Heritage Tree Removed, the applicant shall plant the required Replacement Trees on the property where the Heritage Tree was Removed as calculated by an inch for inch basis, or if authorized, pay a fee in lieu in the amount of \$125.00 per inch removed, or a combination thereof. Any fee in lieu authorized to be paid by the applicant shall be in addition to any other fees or costs charged by the Village.

(Ord. No. 2022-O-20, § 2, 3-8-2022; Ord. No. 2023-O-10, § 2, 2-28-2023)

Sec. 29-17. - Tree removal—General.

- (a) *Removal of dead, dying, diseased, hazardous trees, or invasive trees.*

- (1) The owner of any property within the Village shall remove or caused to have removed any tree that is dead, dying, diseased, or a Hazardous Tree from their property. The owner of any property within the Village may remove an otherwise healthy Invasive Tree from their property.
 - (2) The property owner or the property owner's agent may not remove a Protected Tree or a Heritage Tree that is also a dead, dying, diseased, or a Hazardous Tree, or an Invasive Tree without first obtaining a Tree Removal Permit.
 - (3) The Tree Removal Permit fee, the Replacement Tree requirements, and the fee in lieu of replacement shall not apply to the removal of any dead, dying, diseased tree, or a Hazardous Tree, or an Invasive Tree.
 - (4) The health and potential viability of a dead, dying or diseased tree and the danger posed by a Hazardous Tree shall be determined by the Village Forester/Tree Preservation Officer prior to the issuance of a Tree Removal Permit.
- (b) *Removal of nuisance trees—General.* The owner of any property within the Village containing a Nuisance Tree, shall Remove promptly, but in no case less than ten days, such trees and limbs upon notice from the Director.

In the event of an emergency requiring the removal of a Nuisance Tree, an applicant may Remove a Nuisance Tree prior to a Tree Removal Permit being issued. In such situations, the owner shall obtain photographic evidence of the condition of the Nuisance Tree and an opinion from a Certified Arborist or contractor provided for the imminent or immediate need for the removal. A Tree Removal Permit shall be applied for the following business day, or as soon thereafter as authorized by the Director, after the tree was removed and shall be accompanied by the photographic evidence and opinion required.

In situations where a Nuisance Tree is a nuisance solely because of a limb or limbs of the tree are causing an immediate or imminent hazard, said limb or limbs of the tree causing the nuisance may be cut, trimmed or pruned in a manner that abates said nuisance, but does not otherwise damage the tree.

- (c) *Removal of heritage trees—General.* Unless otherwise authorized in this subsection (c), the Removal of a Heritage Tree is prohibited except upon approval of a variation.

In addition to any other requirements of this subsection (c), a Heritage Tree may only be removed upon the submittal and approval of a Tree Removal Permit and all Replacement Trees have been planted, fee in lieu paid in full, or any combination thereof. For those Replacement Trees that cannot be planted prior to removal of the Heritage Tree, the Director may provide for a schedule for the planting of the Replacement Trees.

- (1)

Definition applicable to this subsection (c). For purposes of this subsection (c), the term "Construction" shall mean the demolition of a Principal Structure (as defined in appendix A of this Code), the construction of a new Principal Structure, the construction of an addition to a Principal Structure, or the construction of a new detached garage.

(2) When in this subsection (c), there is a requirement for any approval or review, the following procedures, requirements and standards shall apply:

a. Zoning Board of Appeals Review. A request to remove a Heritage Tree that requires a variation before the Zoning Board of Appeals shall follow the procedures and requirements of appendix A of this Code except as provided herein. As part of the application for a variation before the Zoning Board of Appeals, an applicant shall provide the notice required for the variation process in lieu of Neighbor Notification.

No variation may be recommended for approval by the Zoning Board of Appeals unless findings have been made, based upon the evidence presented at the public hearing, to support the conclusion that:

i. The particular physical condition and location of the Heritage Tree would impose upon the owner a hardship or practical difficulty if the Heritage Tree were not to be removed; and

ii. There are no other reasonable alternatives to Removing the Heritage Tree

The Zoning Board of Appeals may consider the specific attributes of the existing Heritage Tree and its likelihood to remain as a Healthy Tree. The Zoning Board of Appeals may also take into account other trees currently located or to be planted upon the property.

b. Administrative Zoning Review. A request to remove a Heritage Tree that requires an approval as part of an Administrative Zoning Review shall follow the procedures and requirements of appendix A of this Code, except as provided herein. As part of the application for such Administrative Zoning Review, an applicant shall provide the Neighbor Notification in lieu of the required notice for the Administrative Zoning Review.

No Administrative Zoning Review approval shall be given by the Zoning Administrator unless findings have been made, based upon the application and a review of the Construction plans, to support the conclusion that:

i. A hardship or practical difficulty exists because the existing Heritage Tree makes it impossible and/or impractical to perform the Construction in a size and configuration allowed by right on a lot of similar size;

ii. There are no reasonable alternative methods to perform the Construction that would preserve the condition of the Heritage Tree; and

iii.

The Heritage Tree to be removed is not expected to remain as a Healthy Tree, if it remains in place, because of the Construction.

An approval by the Zoning Administrator of an application for Administrative Zoning Review pursuant to this subsection shall be considered a final decision, not appealable to the any Village Board or Commission.

A denial by the Zoning Administrator of an application for Administrative Zoning Review pursuant to this subsection shall be considered a final decision except only an applicant may apply for a Variation seeking the same relief sought through the Administrative Zoning Review in the manner provided for in this subsection.

- c. Director Review. A request to remove a Heritage Tree that requires an approval from the Director shall follow the procedures and requirements of this subsection. As part of the application for approval from the Director, an applicant shall provide the Neighbor Notification.

No Director approval shall be given by the Director unless findings have been made, based upon the application and a review of the Construction plans, to support the conclusion that:

- i. The Heritage Tree to be removed is not expected to remain as a Healthy Tree, if it remains in place, because of the Construction.

An approval by the Director of an application for removal of a Heritage Tree pursuant to this subsection shall be considered a final decision, not appealable to the any Village Board or Commission.

A denial by the Director of an application for Removal of Heritage Tree pursuant to this subsection shall be considered a final decision except only an applicant may apply for a variation seeking the same relief sought from the Director in the manner provided for in this subsection.

- (3) Removal of Heritage Trees - not in the Required Yard. A Heritage Tree located on a property that is not in the required yard may only be removed as provided for in this subsection and upon submittal of proof of Neighbor Notification.
- (4) Removal of Heritage Trees during Construction.
- a. Removal of Heritage Trees during Construction - Required Yard, except Yard, Interior Side. A Heritage Tree located in the required Yard, except the required Yard, Interior Side (as defined in appendix A of this Code), of a property is prohibited from being removed, except when the removal is performed as a necessary part of Construction and is approved by the Zoning Administrator as part of the Administrative Zoning Review.

- b. Removal of Heritage Trees during Construction-Required Yard, Interior Side. A Heritage Tree located in the required Yard, Interior Side of a property is prohibited from being removed, except when the removal is performed as a necessary part of Construction and is reviewed and approved by the Director as part of the Director Review.
- (d) Removal of Protected Trees.
 - (1) A Protected Tree located on a property may only be removed upon the following:
 - a. Submittal and approval of a Tree Removal Permit; and
 - b. All Replacement Trees have been planted, fee in lieu paid in full, or any combination thereof. For those Replacement Trees that cannot be planted prior to removal of the Protected Tree, the Director may provide for a schedule for the planting of the Replacement Trees.
 - (e) Removal of Trees without a Tree Removal Permit. A tree may be removed without a Tree Removal Permit when the tree is not otherwise classified as a Protected Tree or as a Heritage Tree.

(Ord. No. 2022-O-20, § 2, 3-8-2022; Ord. No. 2023-O-10, § 2, 2-28-2023)

Sec. 29-18. - Penalty.

- (a) Any person who violates any of the provisions of this article, shall be guilty of a violation punishable by a fine of not less than \$50.00 and not more than \$7,500.00 for each offense. A separate offense shall be deemed committed for each day that an offense continues.
- (b) The fine imposed shall not include any fees or fees in lieu imposed in this article, which shall be charged in addition and separate of any fine.
- (c) Any damage or removal of a tree located upon Village owned property or right-of-way under the jurisdiction of the Village, the value of the damaged or removed tree as determined by industry standard, plus the cost of the replacement of the tree of species and size as determined by the Village, shall be charged in addition and separate of any fine.
- (d) Village Manager authority. Upon an individualized assessment of an application, the Village Manager, may, upon good cause shown, waive or reduce the Tree Replacement requirements or the fee in lieu in cases where imposing such requirements would be excessive or otherwise unjust.

(Ord. No. 2022-O-20, § 2, 3-8-2022; Ord. No. 2023-O-10, § 2, 2-28-2023)

Secs. 29-19—29-29. - Reserved.