

VILLAGE OF DEERFIELD

ORDINANCE NO. 2021-   O-21-10  

AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 21 OF “THE MUNICIPAL CODE OF THE VILLAGE OF DEERFIELD, ILLINOIS, 1975,” REGARDING TREE PRESERVATION REGULATIONS AND AMENDING THE VILLAGE’S TREE PRESERVATION ADMINISTRATIVE MANUAL

WHEREAS, the Village of Deerfield is a home rule unit of local government pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution; and

WHEREAS, the Village is recognized for, and takes pride in, its natural, wooded streetscapes and foliage, which are an essential part of the Village’s character; and

WHEREAS, the presence of trees and other vegetation aids in storm water management, helps to prevent erosion, improves air quality, conserves energy, provides a wildlife habitat, and preserves and enhances property values; and

WHEREAS, the Village has adopted comprehensive tree preservation regulations (“*Tree Preservation Regulations*”) in Article 4 of Chapter 21 of “The Municipal Code of the Village of Deerfield, Illinois, 1975,” as amended (“*Village Code*”); and

WHEREAS, since the adoption of the Tree Preservation Regulations, the Village has determined that changes are necessary to: (i) bring the Village Code up to date with the Village’s current practices; and (ii) further enhance the goals of preserving existing trees and promoting repopulation and diversity to the urban forest; and

WHEREAS, pursuant to the Tree Preservation Regulations, the Village has adopted a Tree Preservation Administrative Manual (“*Manual*”) setting forth additional regulations regarding tree preservation; and

WHEREAS, pursuant to the Tree Preservation Regulations, the Village has adopted a Tree Preservation Administrative Manual (“*Manual*”) setting forth additional regulations regarding tree preservation; and

WHEREAS, the Village Board desires to amend the Manual to be consistent with its updates of the Tree Preservation Regulations (“*Amended Tree Preservation Manual*”)

WHEREAS, the Village Board has determined that it will serve and be in the best interests of the Village and its residents to amend the Tree Preservation Regulations and approve the Amended Tree Preservation Manual;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, as follows:

{00119256.1}

Additions are bold and double-underlined; ~~deletions are struck through.~~

**SECTION ONE: RECITALS.** The foregoing recitals are incorporated into, and made a part of, this Ordinance as findings of the Village Board.

**SECTION TWO: AMENDMENTS TO ARTICLE 4 OF CHAPTER 21 OF THE VILLAGE CODE.** Article 4, titled, "Tree Preservation," of Chapter 21, titled, "Trees and Vegetation," of the Village Code is hereby amended as set forth in **Exhibit A** attached to and by this reference made a part of this Ordinance.

**SECTION THREE: APPROVAL OF AMENDED TREE PRESERVATION MANUAL.** The Amended Tree Preservation Manual is hereby approved in the form attached as **Exhibit B**, which Amended Tree Preservation Manual may be further amended by Motion of the Village Board.

**SECTION FOUR: PUBLICATION.** The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

**SECTION FIVE: EFFECTIVE DATE.** This Ordinance will be in full force and effect after passage, approval, and publication in the manner provided by law.

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers

NAYS: None

ABSTAIN: None

ABSENT: None

PASSED: March 15, 2021

APPROVED: March 16, 2021

ORDINANCE NO. O-21-10

  
\_\_\_\_\_  
Harriet Rosenthal, Mayor

ATTEST:  
  
\_\_\_\_\_  
Kent S. Street, Village Clerk

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**Additions are bold and double-underlined; deletions are struck through.**

**EXHIBIT A**

**CHAPTER 21. TREES AND  
VEGETATION**

**Article 4. Tree Preservation**

**21-19 TITLE:**

This Article 4 of Title 21 of the Municipal Code of the Village of Deerfield shall be known, cited and referred to as the *Deerfield Tree Preservation Ordinance*.

**21-20 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. Encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment;
- C. Generally protect and enhance the quality of life and the general welfare of the Village and its citizens;
- D. To preserve and enhance the unique character, physical, historical, and aesthetic environment of the Village;
- E. To aid in the control of storm water runoff, the stabilization of soil by the prevention of erosion and sedimentation, and the replenishment of ground water supplies;
- F. To enhance air quality by aiding in the removal of carbon dioxide, generation of oxygen, and filtering of air pollutants;
- G. To reduce noise by providing a buffer and screen from the spread of noise;
- H. To reduce energy consumption through the shade and windbreak effect of trees;
- I. To preserve and enhance the habitat and food source for birds and other wildlife;

- J. To protect property values;
- K. To prevent the clear cutting of land;
- L. To prevent the existence of trees which pose a threat, danger or nuisance to the public or to property in the Village-; and
- M. To prevent a Monoculture of trees within the Village.

**21-21 SCOPE AND ENFORCEMENT:**

- A. The provisions of this Ordinance shall apply generally and uniformly to all residential areas within the Village of Deerfield except as specifically provided herein.
- B. The provisions of this Ordinance shall be cumulative with consistent provisions of other ordinances of the Village of Deerfield and of the Statutes of the State of Illinois, and to the extent consistent shall be applied and enforced simultaneously. Whenever inconsistent, the provision resulting in the maximum protection, preservation or planting of trees or the highest quality of trees shall govern, except where limited by law.
- C. It is intended in particular that the provisions of this Ordinance shall be applied cumulatively and simultaneously with the provisions of the Zoning and Subdivision Ordinances and the Building Code, and no approvals or permits issued pursuant to such ordinances and codes shall be deemed to authorize the killing, destruction, removal or planting of trees without also complying with the applicable provisions of this Ordinance.

**21-22 DEFINITIONS:**

As used in this Article and in the Administrative Manual, the following words and phrases shall have the following meanings:

\* \* \*

**Director:** Shall mean the Director of Public Works and Engineering their designee.

\* \* \*

**Heritage Tree:** Any Tree, including all genera, species, varieties, cultivars, and sizes of trees, that:

- 1. Represents the very best specimens of Trees, either predates or corresponds with the incorporation of the Village in the beginning of the 20<sup>th</sup> Century, and (iii) are determined by the Village Manager, or his or her designee, to be in good health and structurally sound;

2. Heritage Trees shall include all Trees listed below, with a DBH as indicated:
- All Oaks (*quercus*) with a DBH equal or greater than 25”;
  - All Hickory (*carya*) with a DBH equal or greater than 16”;
  - All Ironwoods (*ostrya virginiana*) with a DBH equal or greater than 8”;
  - All Sugar Maples (*acer saccharum*) with a DBH equal or greater than 20”;
  - and
  - All White Pines (*pinus strobus*) with a DBH equal or greater than 20”.

\* \* \*

**Monoculture:** The practice of growing or planting a single species of Trees within a given location.

\* \* \*

**Protected Tree:** All Public Trees without regard to DBH, all Heritage Trees, and any Tree located on a Site that is either: (i) a Tree having a diameter at breast height (DBH) of eight inches (8”) or greater; or (ii) a multi-stem Tree having an aggregate total of fifteen inches (15”) DBH or greater. Notwithstanding anything herein to contrary, a Protected Tree shall not include any Tree in the genera *Rhamnus* (Buckthorn).

\* \* \*

**Rhamnus (Buckthorn):** A non-native species such as seeds, eggs, spores, or other propagules, whose introduction causes or is likely to cause economic harm, environmental harm, or harm to human health. The genera *Rhamnus* is considered an aggressive species, commonly known as an "invasive species." The Buckthorn invades forests, prairies, and savannas in the Midwestern United States and can form dense thickets crowding out native shrubs and understory plants. It is difficult to eliminate and can regenerate after cutting or burning. This invasive species grows and reproduces rapidly, negatively impacting wildlife and water quality in the areas in which it is present.

\* \* \*

**Tree Survey:** A document consisting of text and graphics that includes the tag number and location of all Trees having a DBH of six inches or greater, all live Protected Trees on the Site or on adjacent properties that are within 10 feet of the property line of the Site or that have a critical root zone extending into the Site. The tree survey shall also include all Public Trees in the right-of-way adjacent to the Site and all Public Trees that may be impacted by the construction. The survey will contain a level of detail and other pertinent information as may be required by the Village Manager or his/her designee.

\* \* \*

**21-26            ADMINISTRATION:**

This Ordinance establishes the policy of the Village of Deerfield as it relates to the preservation of existing trees, landscaping, and street tree planting. The Village Manager or his/her designee shall administer and enforce this ordinance. The Village Manager or his/her designee shall adopt and promulgate an Administrative Manual to implement and promote the purposes and provisions of this Ordinance consistent with good forestry practice. Without limiting the generality of this authority, the Administrative Manual may, among other things, prescribe:

- A.     The classification of tree species considering relative desirability, hardiness and disease and pest resistance for tree preservation and replacement purposes;
- B.     Specifications for protecting trees during construction activities;
- C.     Requirements for tree removal permits;
- D.     Procedures for permit and plan review and approval;
- E.     Requirements for tree replacement plans;
- F.     Requirements for tree protection, construction envelope and conservancy area fencing;
- G.     A tree replacement formula considering the size, condition and species value of the tree to be replaced;
- H.     Evaluation and assessment of construction sites; and
- I.     Requirements for approving a mitigation credit for the elimination of Rhamnus (Buckthorn).

\*       \*       \*

**21-29.            ACTION ON APPLICATIONS FOR AD HOC TREE REMOVAL:**

- A.     Unless otherwise specifically authorized in this Ordinance, it shall be unlawful for any Owner without a Tree Removal Permit from the Village to damage or remove any Public Tree or any Protected Tree.
- B.     Any Owner that damages or removes, or authorizes anyone to damage or remove, any Protected Tree located on such Owner's land, or any Protected Tree located on adjacent property and within ten feet (10') of a lot line shared with the Owner's land or that has a critical root zone extending onto the 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.

- C. An Owner that seeks to remove a Public Tree, a Heritage Tree, or a Protected Tree on a Site must complete a Tree Removal Permit application and shall be required to submit the application fee established in the Village Fee Ordinance and, if applicable, the mitigation fee required by this Ordinance; provided, however, that no tree removal application fee, permit fee or mitigation fee shall be required if an application is approved for removal of a Protected Tree for the following reasons:
- (1) The Protected Tree must be removed because it is dead, dying or diseased.
  - (2) The Protected Tree is weakened by disease, age, fire, storm or other natural causes such that it is likely to die or become diseased.
  - (3) The Protected Tree constitutes a hazard to pedestrian or vehicular traffic.
  - (4) The Protected Tree constitutes a hazard to a building.
  - (5) Removal of the Protected Tree is consistent with good forestry practices.
  - (6) The Protected Tree is causing or is likely to cause a public nuisance as a result of root invasion into public utility lines or private utility services on the Owner's property.
- D. 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 subject to such conditions as may be required for the preservation of Protected Trees and/or for mitigation of necessary removal of Protected Trees.
- E. Prior to the removal of any Protected Tree authorized for removal, the tree shall be clearly marked by the Village Forester.

**21-33. MITIGATION REQUIRED FOR THE REMOVAL OF PROTECTED TREES:**

- A. An Owner receiving a Permit for the removal of Public Trees or Protected Trees on the subject property shall have a duty to provide mitigation of the Protected Trees as specified in the Tree Removal Permit issued by the Village.
- B. An Owner that removes a Public Tree or a Protected Tree without a Tree Removal Permit or in violation of a Tree Removal Permit shall provide mitigation of such Tree(s) in accordance with a Tree Replacement Plan approved by the Village Forester.

- C. An Owner that has damaged a Public Tree such that the tree is dying or diseased or is likely to die or become diseased shall replace such tree(s) in accordance with a Tree Replacement Plan approved by the Village Forester.
- D. An Owner that has damaged a Protected Tree such that the tree is dying or diseased or is likely to die or become diseased shall provide mitigation of such tree(s) in accordance with a Tree Replacement Plan approved by the Village Forester.
- E. The removal of Protected Trees and Public Trees requires mitigation as determined by the Village Forester. Protected Trees and Public Trees shall be mitigated by either planting replacement trees or by payment of a mitigation fee at the rate specified in the Annual Fee Ordinance, considering the size, condition rating and species rating of the trees requiring mitigation. The Village Forester shall determine the replacement rate for Protected Trees and Public Trees requiring mitigation pursuant to the following formula utilizing the Species Rating Guide set forth in Appendix E to the Administrative Manual, and the Tree Condition and Rating Guide set forth as Appendix D of the Administrative Manual which are adopted and incorporated herein by this reference.

Species Group	Replacement Rate	
	D.B.H. Removed	No. Caliper Inches Replaced
A	1"	1.0" caliper
B	1"	0.6" caliper
C	1"	0.3" caliper

- F. The removal of a healthy Heritage Tree requires full mitigation as determined by the Village Forester. Heritage Trees shall be mitigated without the consideration of replacement rates. Mitigation value shall depend on the DBH of the Tree, regardless of the species rating or condition rating of the healthy Heritage Tree.

**21-34. MITIGATION CREDIT FOR THE ELIMINATION OF RHAMNUS (BUCKTHORN):**

An Owner that removes Trees in a manner that requires mitigation pursuant to this Article, and as part of the removal eliminates an invasive species of Rhamnus (Buckthorn) on the subject property shall be entitled to a credit determined by the Village Forester to offset, in whole or in part, the any mitigation fees based on the about of Rhamnus (Buckthorn) eliminated from the property.

**21-35. TREE REPLACEMENT PLANS:**

- A. When required by this Ordinance, a Tree Replacement Plan shall be submitted providing for the planting of new trees of species, caliper 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 for the replacement of Protected Trees and/or Public Trees removed or damaged by the Owner. If a Tree Replacement Plan calls for the planting of six or more replacement trees, no more than one third of the replacement trees shall be of a single species to prevent a Monoculture.

- B. Any Owner required to make replacements for a Protected Tree shall make all such replacements with a new tree or saplings of not less than two inches (2") caliper or eight feet (8') in height when deciduous ornamental trees in clump form or evergreens are used (an eight foot (8') tree is considered equivalent to a 3" caliper tree). The total aggregate caliper of all such trees and/or saplings used as replacements based on good forestry practices as approved by the Village Forester shall equal or exceed the DBH of the Protected Tree(s) so removed.
- C. A cash tree replacement fee shall be submitted with the Tree Replacement Plan as a guarantee that Protected Trees will be replaced pursuant to the plan. The total fee shall be the replacement cost per inch at breast height as established in the Village Fee ordinance times the replacement rate specified in Section 21.4-15 of this Ordinance.
- D. Replacement of Protected Trees shall be made within twelve (12) months of the date of issuance of the Tree Removal Permit. The Village Forester upon request may grant an extension of not more than twelve (12) months time. Upon the planting of the mitigation trees and after the inspection and approval of the mitigation trees by the Village Forester, the amount of cash tree replacement fee guarantee equal to the number of inches planted will be refunded to the applicant.

**21-36. INSPECTIONS:**

A copy of the Tree Removal Permit or approved Tree Preservation Plan shall be kept at the Site during the time that work is underway, and the Village Forester shall make whatever inspections are required to ensure compliance. The Director is authorized to issue a stop work order for all construction work on the Site if the Owner fails to comply with the requirements of Tree Removal Permit or Tree Preservation Plan.

**21-37. 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 (e.g., Protected Trees which threaten to fall or have fallen on houses or power lines or impede 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 fourteen

(14) days after taking any such action the Owner shall submit an after-the-fact Tree Removal Permit Application describing the Tree Emergency and the actions taken.

- B. If the Village Forester upon his review of the Tree Removal Permit Application concurs that a Tree Emergency existed and that the Owner's actions were warranted in response to the Tree Emergency, an after-the-fact Tree Removal Permit shall be issued without fee and no further action under these regulations shall be necessary. 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 and the Owner shall be required to provide mitigation as provided in Section 21.4- 10.

**21-38. PENALTY:**

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Five Hundred Dollars (\$1500.00) for each such violation. A separate and distinct violation shall be deemed to have occurred for each Protected Tree or Public Tree unlawfully damaged, removed and/or not replaced in violation of this Article, and a separate and distinct violation shall be deemed to have occurred for each day that such violation exists or continues. Any penalties imposed are in addition to any required mitigation.

**21-39. FEES:**

Fees for tree removal permit applications, tree removal permits, and plan reviews shall be paid as provided in the Village Fee Ordinance.

**21-40. APPEALS:**

Except as otherwise provided in this Ordinance, an applicant may appeal in writing to the Village Manager any decision made by the Director or Village Forester within thirty (30) days of the decision being rendered. If not satisfied with the decision of the Village Manager, the applicant may appeal in writing to the Village Board of Trustees within thirty (30) days of the decision rendered by the Village Manager, but the Board of Trustees is not obliged to consider any such appeal.

**21-41. NON LIABILITY OF VILLAGE:**

Nothing in this Ordinance shall be deemed to impose any liability upon the Village or upon any of its officers or employees nor to relieve the owner of any private property from the duty to keep trees and shrubs upon private property or under his control in a safe and healthy condition.

**EXHIBIT B**

**Amended Tree Preservation Manual**