

AN ORDINANCE AMENDING CHAPTER 114, "VEGETATION", OF THE CITY OF ROLLING MEADOWS CODE OF ORDINANCES TO ADOPT AND AMEND THE ORDINANCE WITH TREE PRESERVATION GUIDELINES

WHEREAS, the City of Rolling Meadows ("City") is an Illinois municipal corporation and home rule unit of local government organized and operating in accordance with the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.* ("Code"); and

WHEREAS, the City previously adopted vegetation code regulations, which are currently located in Chapter 114 of the City of Rolling Meadows Code of Ordinances ("Vegetation"); and

WHEREAS, the City wishes to replace the Vegetation regulations with the regulations attached as Exhibit 1 to this Ordinance ("Code Update"); and

WHEREAS, beginning in earnest in 2020, in response to direction from Council prompted by the unexpected weekend removal of multiple large "legacy" trees on a lot scheduled for redevelopment, City staff conducted a comprehensive analysis of Chapter 114, and prepared the Code Update; and

WHEREAS, since 2020, the Code Update was discussed at two (2) Committee of the Whole and three (3) Environmental Committee meetings to evaluate and discuss the Code Update; and

WHEREAS, it is in the best interest of the City of Rolling Meadows to adopt the Code Update to safeguard the health, safety and welfare of the citizens of the City and protect property by the regulation of vegetation and vegetation removal on both public and private properties within the City; and

WHEREAS, the City Council finds that adopting the Code Update encourage responsible reinvestment and development, enhances City aesthetics, and protects and promotes the public health, safety and welfare; and

WHEREAS, the City Council wishes to adopt the Code Update in accordance with this Ordinance's terms.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Rolling Meadows, Cook County, Illinois, as follows:

SECTION ONE: The foregoing recitals are incorporated in this Section as though fully set forth herein.

SECTION TWO: The City Council finds that it is in the City's best interests to adopt and approve the Code Update.

SECTION THREE: Chapter 114, entitled "Vegetation" of the Code of Ordinances, City of Rolling Meadows, Illinois, is hereby comprehensively amended and replaced in its entirety with the Code Update, attached hereto as Exhibit 1 by this reference and made a part of this Ordinance as if fully set forth herein.

SECTION FOUR: Paragraph (h) of Section 98-162 entitled "Streets", of Division 4, entitled "Design Standards", of Article III, entitled "Plats", of Chapter 98, entitled "Subdivisions", of the Code of Ordinances, City of Rolling Meadows, Illinois, is hereby amended to read as follows:

- (h) Surface grading at street intersections shall be such as to permit unrestricted vision within the sight triangles as determined per the applicable provisions of chapter 114.

SECTION FIVE: Paragraph XXII, entitled "Trees and Shrubs", of Appendix B, entitled "Schedule of Rates, Fees, Fines and Penalties", of the Code of Ordinances, City of Rolling Meadows, Illinois, is hereby repealed in its entirety and reserved for future use.

SECTION SIX: In the event that a conflict exists between the terms of this Ordinance and any other ordinance or resolution of the City, the terms of this Ordinance shall govern.

SECTION SEVEN: If any part, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the remaining sections, subsections and clauses shall not be affected thereby.

SECTION EIGHT: This Ordinance shall be in full force and effect from and after August 1, 2023, and the provisions of the City of Rolling Meadows Code of Ordinances amended herein shall be reprinted with the changes.

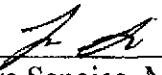
PASSED by the City Council of Rolling Meadows, Cook County, Illinois this 23rd day of May, 2023.

AYES: Koehler, McHale, Budmats, O'Brien, Vinezeano, Boucher, Reyez

NAYS: 0

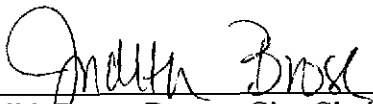
ABSENT: 0

APPROVED this 23rd day of May, 2023.



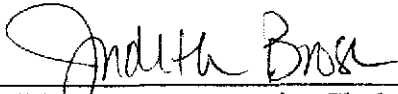
Lara Sanoica, Mayor

ATTEST:



Judith Brose, Deputy City Clerk

Published this 26th day of May, 2023.



Judith Brose, Deputy City Clerk

EXHIBIT 1

Chapter 114 - VEGETATION

ARTICLE I. - IN GENERAL

Sec. 114--1. - Statement of purpose.

The primary objective of the city government is to provide the citizens of Rolling Meadows a safe, prosperous, healthy, and sustainable community in which to live and work. To consistently meet this objective requires the coordinated efforts of many individuals and municipal departments including those responsible for maintaining the infrastructure of the city. Components of this infrastructure include streets, sidewalks, sewers, buildings and trees. When considering our development and maintenance efforts, it is important to guide our community, businesses, and citizens the embrace sustainable practices which promote a vibrant community today and ensures the success, health, well-being, and prosperity of future generations. Trees are an important component of a sustainable community. Healthy trees are unique in that they appreciate in value as they mature, unlike other components of the infrastructure that continually depreciate over time. Some of the City's trees, particularly in locations west of Illinois Route 53, are considered "Heritage Trees", existing long before the City was incorporated. The maintenance and Sustainability of our Heritage Trees and our more recent urban canopy is important to the health and wellbeing of current and future generations. The City Forester has established guidelines for the care and preservation of Heritage Trees on public property. The preservation of significant trees on private property during development or redevelopment is also necessary to promote preservation of the urban tree canopy and dissuade unnecessary tree removal and land clearing.

Trees provide a wide range of benefits to the city. Healthy trees reduce air and noise pollution, reduce carbon footprint, slow stormwater runoff, contribute to energy conservation through shade and protection from the wind, and significantly increase property values. Trees need sufficient soil, water, and air to survive. Trees have a long lifecycle, often spanning hundreds of years, and the replacement of Heritage Trees would take decades to reach equivalent maturity and value. Therefore, planning and maintenance of the urban forestry is a long-term process and must consider the decades it takes for a tree to grow. Protecting existing natural resources and planning for the establishment and care of new trees will enhance the economic and environmental health of the city.

The purpose of this chapter is to promote and protect current and long-term public health and safety by providing for the proper establishment of new trees, the protection and maintenance of existing and Heritage Trees and the timely removal of hazardous, invasive, or undesirable trees.

Sec. 114-2. - Goals.

The provisions contained in the City Code are designed to yield specific goals when properly implemented. These goals include:

- A. Maintain a healthy urban forest. The urban forest of the city is a dynamic ecosystem comprised of trees, soil, water, air, wildlife and humans. Proper stewardship of the ecosystem is the most

efficient and economical method of ensuring a healthy, safe, and relatively hazard-free environment for the citizens of Rolling Meadows.

- B. Promote age and species diversity of the tree population. The long-term health of city's urban forest depends on a proper distribution of young, middle-aged and mature trees. Adequate stocking of variously aged trees ensures that as mature trees decline and are removed, younger trees are available to fill in the canopy. Species diversity is also important to guard against substantial losses to a species-specific pest or disease, such as Dutch Elm Disease.
- C. Improve species and site selection for new tree plantings. Increasing species diversity will only improve the urban forest if the species are matched with the site in which they are growing. Large trees provide the greatest benefits relative to energy conservation; air quality and storm water retention, but require sufficient space to reach their full size at maturity. Small trees can be used in a variety of places that are size restricted, however, if a space will accommodate a tree that achieves a larger size at maturity, the larger-growing species should be considered. The proper tree should be located according to the conditions of the site with consideration given to increasing canopy closure, maximizing environmental benefits and achieving consistency in the landscape design.
- D. Establish optimum canopy closure. Trees help to conserve energy by providing shade to buildings during the summer. Additional cooling can be realized by shading roads and parking lots that would otherwise absorb sunlight and radiate heat. Since the city is located in a climate where considerably more energy is spent on heating than cooling, consideration must also be given to the effect of shade on heating costs in the winter. Careful consideration of the establishment of new trees will result in the optimum canopy closure relative to energy conservation.
- E. Resolution and prevention of tree/Hardscape conflicts through coordinated planning. Trees require space for roots, trunk, and branches. Frequently the space occupied by portions of trees is needed for other elements of the infrastructure such as roads, sewers, utility lines and buildings. Conflicts between trees and other infrastructure components can be minimized through cooperation of the various city departments, local utility companies and citizens. The provisions of this article are intended to facilitate communication and cooperation between those individuals and agencies charged with maintaining the city's infrastructure.
- F. Provide attractive and aesthetically pleasing transportation routes and open space. The city recognizes the benefits associated with the development of shade provided by trees along motor vehicle and bicycle routes in the community. The shade provides a cooling effect, which encourages physical activity, manifested by walking, jogging and bicycle riding. In addition, the beauty of a tree canopy adds charm and attractiveness to residential and commercial settings.
- G. Promote public education and support. The primary reason to care for trees and natural resources in the city is to improve the community for its citizens. The urban forest management program must be based on the informed support of the citizens. A goal of this article is to provide proper tree care through informed, professional management based on knowledge. Those city employees responsible for the management of natural resources in Rolling Meadows are also responsible for sharing their knowledge and sources of information with the public.

H. Facilitate the resolution of tree-related conflicts. A goal of this article is to make available reasonable and fair guidelines for maintaining healthy, structurally sound and safe trees, and to provide a comprehensive standards manual for planting, pruning and removing trees. By providing these guidelines in a clear and understandable format, equal and fair treatment is guaranteed for all residents.

Sec. 114-3. - Home rule authority and severability.

It is the intent of this article to help coordinate the efforts of those responsible for the care of natural resources within the city by promoting ideas consistent with existing state and federal laws that may also be applicable. In the event that the provisions of this article conflict with the provisions of other existing codes or ordinances, the guidelines put forward in this document shall prevail within the borders of the city.

Should any part or provision of this chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole or any part other than the part held to be invalid.

Sec. 114-4. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arboricultural Standards Manual, City of Rolling Meadows, Illinois means a document of specifications and guidelines relative to tree planting, maintenance and removal based on accepted arboricultural and safety standards within the City of Rolling Meadows. All references within this article to the city Arboricultural Standards Manual shall pertain to the most current version of this document on file in the offices of the Department of Public Works and the City Clerk.

Boundary Tree means a tree whose Root Collar is located on a property line, and is therefore owned in common by adjoining landowners.

Caliper means the diameter of a tree measured at six inches above ground level. Caliper measurements are typically used to report the diameter of trees that are less than three inches diameter at four and one-half feet above ground level (see definition of diameter at breast height).

Critical Root Zone is the distance from the trunk that equals one foot for every inch of the tree's diameter at DBH.

Diameter at Breast Height (DBH) means the diameter of a tree measured at four and one-half feet above ground level. If the lowest branches of the tree are below four and one-half feet above ground level, diameter is typically measured at the narrowest point between ground level and the lowest branch. For trees less than three inches in diameter at four and one-half feet above ground level, Caliper measurement is typically used to report the diameter of the tree.

Director of Public Works means the Director of the Rolling Meadows Public Works Department, or any person authorized to act in the director's stead.

Dripline means the entire ground area within the vertical projection of the crown of a tree.

Dutch Elm Disease means a fungal disease of Elm Trees known scientifically as *Ceratocystis ulmi*.

Elm Bark Beetle means the European Elm Bark Beetle known scientifically as *Scolytus multistriatus*, or the native Elm Bark Beetle known scientifically as *Ilyurgopinus rufipes*.

Elm Tree means any tree of the genus "Ulmus" which includes any portions thereof, the stumps thereof, and any woodpiles consisting of portions of any such tree.

Emerald Ash Borer means the metallic green beetle, native to Asia (*Agrilus Planipennis* Fairmaire).

City Forester means the person appointed by the Director of Public Works to serve as the primary authority on the establishment, care and removal of trees within the city or any person authorized to act in the City Forester's stead.

Hardscape means any paving material such as concrete, asphalt or bricks used in the construction of streets, parking lots, sidewalks, driveways, or other impervious surfaces on public rights-of-way.

Hazardous tree means a tree located on either public or private property, which following assessment by the Public Works Director or Designee has been found likely to fail and cause an unacceptable degree of injury, damage, or disruption, or a tree that contains a disease or Insect Pests that could imperil other trees located on private and public property.

Heritage Tree means a tree of biological, cultural, ecological or historical interest because of its age, size or condition. Heritage Trees are an integral and valuable part of our natural and cultural landscape and are often among the oldest living objects in the community.

Insect Pests means insects, crustaceans, arachnids, and vermin injurious to plants, plant products, animals and man.

Parkway means that part of the public street Right-Of-Way not occupied by the street pavement and located between the back of the curb, or edge of pavement on streets with no curbs, and the Right-Of-Way line, as well as the raised dividing strip of a roadway. Where a sidewalk exists, the Right-Of-Way line is often, but not always, one foot behind the sidewalk. The exact location of the Right-Of-Way line shall be as indicated on a plat of survey.

Plant Diseases means fungi, bacteria, nematodes, protozoan and viruses injurious to plants and plant products and pathological condition in plants and plant products caused by fungi, bacteria, nematodes, protozoan and viruses.

Premises means any lot or tract of land within the city not owned by the said city or dedicated for public use.

Private Tree means a tree whose Root Collar is located wholly on private property or property not owned or maintained by the City.

Protected Tree means trees defined as having a trunk size of twelve inches (12") or greater, or a multi-stem tree with an aggregate diameter of eighteen inches (18") or greater diameter at breast

height (DBH). DBH shall be measured at 54" above the established ground level. Additionally, any tree of any size that was required to be planted by City regulation, permit, ordinance or agreement shall be considered a Protected Tree.

Public Tree means a tree whose Root Collar is located wholly on property owned or maintained by the city, including City rights-of-way.

Replacement Tree means a tree placed on a property in accordance with this Chapter to replace trees that are authorized for removal, having a minimum trunk size of two inches in Caliper from the City's approved species list, or otherwise approved by the Public Works Director or Designee.

Right-Of-Way means a strip of land acquired by or dedicated to the public and occupied or intended to be occupied by a street, walkway, railroad, utility or other similar use.

Root Collar means the part of a tree or Shrub, usually at ground level, where the roots and stem or trunk meet.

Shrub means any woody perennial plant that has the following characteristics when mature: usually has multiple stems, but may be single-stemmed; does not have the potential to achieve a maximum height of greater than 20 feet.

Sight Triangle means a triangular area at the intersection of two streets or a street and a driveway, the hypotenuse of which establishes a safe line of sight for a motorist, cyclist or pedestrian. The Sight Triangle shall be determined per section 114-6(b)(1).

Sustainability means the ability to meet the growing needs of today without compromising the potential and quality of life for future generations.

Topping means the indiscriminate, severe cutting back of limbs to stubs within a trees crown to such a degree so as to remove the normal canopy and disfigure the tree, synonymous with substantial destruction.

Tree Replacement Fund means a separate accounting of all monies deposited in the City's General Fund pursuant to 114-35-b or 114-35-e, and budgeted annual for the City to utilize in the replacement of trees pursuant to this Chapter.

Tree means any woody perennial plant that has the following characteristics when mature: usually has a single main stem, but may be multiple-stemmed; has the potential to achieve a minimum height of ten feet at maturity.

Tree Preservation means an effort in retaining or preventing the removal of trees

Tree Protection means physical measures taken to prevent damage to trees selected for preservation

Sec. 114-5. - Authority and responsibility.

A. Maintenance of the city infrastructure including trees is most efficiently accomplished as a coordinated effort between municipal departments. While the interests of trees and natural resources within the city is the general responsibility of all municipal departments, the primary

responsibility of tree planting, maintenance and removal resides with the Director of Public Works. The Director of Public Works, or designee may serve notice to any person in violation of the provisions of this article or initiate legal proceedings as may be necessary.

- B. There is hereby created a forestry division within the public works department. The forestry division shall have such duties as specified by this chapter or as directed by the Director of Public Works. The Director of Public Works shall appoint a City Forester.
- C. The City Forester through the authority of the Director of Public Works shall have the authority to interpret and enforce the provisions of this Chapter in conformance with the City of Rolling Meadows Arboricultural Standards Manual.
- D. Right to enter Premises and inspect trees.
 - (1) In order to carry out the purposes of this article, and to implement the enforcement thereof, the Director of Public Works is authorized and empowered to request the owner's permission to enter upon any lot or parcel of land in the city at any reasonable hour, for the purpose of inspecting such Premises if the Director of Public Works or designee has reasonable cause to believe said property is not in compliance with the provisions of this Chapter, may contain Hazardous Trees and Shrubs, and for the purpose of removing specimens from such tree as required for the purpose of laboratory analysis or to determine whether such trees, because they are dead or substantially dead, may serve as a breeding place for the European Elm Bark Beetle, Emerald Ash Borers, or other pest.
 - (2) If such entry is refused, the Director of Public Works or designee shall appear before any duly authorized judge or magistrate in order to obtain a search warrant allowing entry onto the Premises for the purposes stated in subsection (1) of this section.
 - (3) The city shall have the authority to plant, maintain and remove all Public Trees, Shrubs and other plantings in any public Right-Of-Way within city limits or on any property owned or maintained by the city.

Sec. 114-6. - Hazardous Trees and Shrubs.

- A. Any otherwise healthy tree, whether located on city-owned property or on private property which harbors Insect Pests or Plant Diseases which reasonably may be expected to injure or harm any additional trees shall be pruned, removed, or otherwise treated by the property owner or his agent in whatever fashion is required to cause the abatement of the hazardous condition, within 30 days of being served notice by the city to do so. If the hazardous condition is not abated or eliminated within 30 days, the city reserves the right to prune, remove or otherwise treat the hazardous condition and to bill the owner for the cost of such work.
- B. Any tree or Shrub growing on private property which overhangs any sidewalk, street or other public place in the city in such a way as to impede or interfere with traffic or travel on such public place, or has become likely to fall on any public place as described below, shall be trimmed by the owner of the Premises on which such tree or Shrub grows so that the obstruction or hazard shall be eliminated:
 - (1) The location of landscaping on corner lots shall be regulated as follows so as not to obstruct road signage and/or the vision of drivers of motor vehicles. No buildings or structures shall be erected or maintained, nor any landscaping planted, grown or maintained within a triangular area determined by a diagonal line connecting two points measured along the

property lines of the abutting streets 30 feet equidistant from the intersection of those property lines (excluding the Right-Of-Way), so as to obstruct or obscure the vision of drivers of motor vehicles on either or both street(s). The first point on the stop-controlled street shall be 15 feet from the edge of pavement of the non-stop controlled street. The second point on the non-stop controlled street shall stop controlled street as follows:

Speed Limit	Distance
25 mph	127 feet
30 mph	152 feet
35 mph	177 feet
40 mph	202 feet
45 mph	227 feet

The city engineer may determine that certain intersections require more than 15 feet from abutting streets which determination shall be based on the standards of the Illinois Department of Transportation.

- (2) Shrubs shall be kept entirely clear of sidewalks. Tree limbs shall not project over the sidewalk at a height of less than eight feet above the sidewalk or 14 feet above the street pavement. Owners of vegetation not maintained in the above manner shall be required to correct the violation within 30 days of being served by the city with a notice to do so, or as otherwise directed and agreed to by the Public Works Director or Designee in writing. If the violation is not corrected within 30 days, the city reserves the right to cause the vegetation to be pruned or removed and to bill the owner for the cost of such work.
 - (3) Any tree or portion of a tree growing on private property that has been declared hazardous by the Public Works Director or Designee shall be pruned, removed, or otherwise have the risk mitigated by the owner of the Premises on which such tree grows or stands. Owners of vegetation not maintained in the above manner shall normally be required to correct the violation within 30 days of service of such notification from the Director of Public Works or designee, or as otherwise directed and agreed to by the Public Works Director or Designee in writing. If the violation is not corrected as required, the city reserves the right to cause the tree to be pruned or removed and to bill the owner for the cost of such work.
- C. Imminent hazard. In the event that the risk of personal injury, property damage, or injury and harm to any other tree is imminent, the city reserves the right to act immediately to alleviate the imminent hazard, and notify the property owner thereafter.
- D. Enforcement and inspection. The Director of Public Works or designee shall enforce the provisions of this section. The Director of Public Works or designee is hereby authorized, after giving notice of the intent and purpose, to enter in or upon any Premises in the city, at all reasonable hours, for the purpose of inspecting such Premises if the Director of Public Works or designee has reasonable cause to believe that said property may contain Hazardous Trees or Shrubs. It shall be unlawful for any person to prevent the Director of Public Works or designee from entering upon such Premises for the purpose of carrying out the duties specified

hereunder or to interfere with the Director of Public Works or designee in the performance of the lawful duties authorized under the provisions of this section.

- E. Notice. If any tree or Shrub growing on any Premises in the city is found to be hazardous, the Director of Public Works or designee shall serve a notice upon the owner or occupant of the Premises on which the said tree or Shrub is growing to prune, remove, or otherwise treat the trees and/or Shrubs to abate the hazardous condition within 30 days or as otherwise directed and agreed to by the Public Works Director or Designee in writing. Such notice shall contain the following information:
- (1) The identity of the property, by common description.
 - (2) The tree or Shrub affected.
 - (3) A notice that it is unlawful to permit such Hazardous Trees and/or Shrubs to remain on the property.
 - (4) A request for the pruning, removal or treatment of said trees and/or Shrubs.
 - (5) A notice that if the hazardous condition is not abated within 30 days, or as otherwise directed, the City will make necessary arrangements to abate the hazardous condition and charge the cost thereof to the owner or occupant of the Premises.
- F. Lien. If a Hazardous Tree or Shrub or element thereof is removed by the city, or by someone directed to remove the said Hazardous Tree or bush on behalf of the city, and the owners of the property on which the Hazardous Tree or Shrub existed fails to pay the invoice sent by the city, a notice of lien containing the cost and expense of removal incurred by the city may be recorded in the following manner: the city, or the person or firm authorized by the city to remove such tree in his or its own name, shall file a notice of lien in the office of the Recorder of Deeds of Cook County, Illinois, or, where applicable, in the Office of the Registrar of Titles of Cook County, Illinois. The lien notice shall consist of a sworn statement setting out:
- (1) A description of the real estate sufficient for identification;
 - (2) The amount of the cost and expense incurred or payable for the service; and
 - (3) The date or dates when such cost or expense was incurred by the city.
 - (4) Such notice shall be filed within 60 days after the cost and expense has been incurred.
- G. Release of lien. Upon payment of the cost and expense by the owner or persons interested in the real estate affected, after notice of lien has been filed, the lien shall be released by the city or person in whose name the lien has been filed and the release may be filed of record in the same manner herein provided for the filing of a notice of lien.

Sec. 114-7. - Disease and insect control.

- A. Nuisance declared. Any tree found to be infected with Emerald Ash Borer (EAB) or Dutch Elm Disease, located on any Premises in the city, shall hereby be declared to be a public nuisance and it shall be removed within 30 days following service of the notice for which provision is made herein. It shall be unlawful for any person that owns any Premises on which such an infected tree is located to allow such tree to remain on any such Premises after the expiration of ten days after service of notice pursuant to subsection (d) of this section.
- B. Breeding places of EAB or elm bark, beetles, nuisance. Ash trees, Elm Trees or parts thereof, in a dead or dying condition, including stumps and wood in wood piles, that may serve as a breeding place or places of the EAB or Elm Bark Beetle are hereby declared to be public

nuisances. It shall be unlawful for any person that owns premises on which any such trees, parts thereof, stumps or wood piles are located to permit the same to remain thereon after the expiration of 30 days after service of a notice to remove the same pursuant to subsection (d) of this section. It shall also be unlawful for any person or company to sell or otherwise dispose of infected logs within the corporate limits of the city. In the event of such violation, that person or company shall be required to remove and properly dispose of the logs at his/their own expense within 30 days after service of a notice to remove the same.

- C. Enforcement and inspection. The Director of Public Works or designee shall enforce the provisions of this section. The Director of Public Works or designee is hereby authorized, after giving notice of the intent and purpose, to enter in or upon any Premises in the city, at all reasonable hours, for the purpose of inspecting such Premises if the Director of Public Works or designee has reasonable cause to believe the Premises may contain infected trees or breeding places of the EAB or Elm Bark Beetle. The Director of Public Works or designee may remove from such trees such samples, borings or specimens as are required for the purpose of making a laboratory analysis to determine whether any tree located thereon is infected with EAB or Dutch Elm Disease or is a breeding place of the EAB or Elm Bark Beetle. It shall be unlawful for any person to prevent the Director of Public Works or designee from entering upon such Premises for the purpose of carrying out the duties specified hereunder or to interfere with the Director of Public Works or designee in the performance of the lawful duties authorized under the provisions of this section.
- D. Notice. If any tree growing on any Premises in the city is found to be infected with EAB or Dutch Elm Disease, the Director of Public Works or designee shall serve a notice upon the owner or occupant of the Premises on which the said tree is growing to remove the said tree within 30 days. Such notice shall contain the following information:
- (1) The identity of the property, by common description;
 - (2) The tree affected;
 - (3) A notice that it is unlawful to permit such infected tree to remain on the property;
 - (4) A request for the removal of the tree;
 - (5) A notice that if the tree is not removed within 30 days, the city will make necessary arrangements to remove the same and charge the cost thereof to the owner or occupant of the Premises; and
 - (6) A notice that if the cost and expense incurred in the removal of such infected tree is not paid, then within 60 days after incurring such cost and expense a notice of lien on the real estate affected will be filed in the office of the recorder of deeds, or registrar of titles, whichever is applicable, of Cook County, Illinois.
- E. Abatement. If any person served with a notice to remove an infected tree refuses or neglects to remove the tree, within 30 days of the date that such notice is served, then the Director of Public Works or designee, or his agents or contractors, may enter in or upon the Premises where the infected tree is located and remove the tree. The cost and expense of such removal shall be charged to and paid by the owner or occupant of the lot or Premises.
- F. Liens. If a diseased tree is removed by the city, or by someone directed to remove the said tree on behalf of the city, a notice of lien containing the cost and expense of removal incurred by the city may be recorded in the following manner: the city, or the person or firm authorized by

the city to remove such tree in his or its own name, shall file a notice of lien in the Office of the Recorder of Deeds of Cook County, Illinois, or, where applicable, in the Office of the Registrar of Titles of Cook County, Illinois. The lien notice shall consist of a sworn statement setting out:

- (1) A description of the real estate sufficient for identification;
- (2) The amount of the cost and expense incurred or payable for the service; and
- (3) The date or dates when such cost or expense was incurred by the city.

Such notice shall be filed within 60 days after the cost and expense has been incurred

- G. Release of lien. Upon payment of the cost and expense by the owner or persons interested in the real estate affected, after notice of lien has been filed, the lien shall be released by the city or person in whose name the lien has been filed and the release may be filed of record in the same manner herein provided for the filing of a notice of lien.

Sec. 114-8. - License required.

It shall be unlawful for any person other than the City Forester, Public Works Director or Designee and staff under his direction to plant, remove, trim, spray or otherwise treat trees located within the city for compensation unless they are licensed by the State of Illinois, and have received a permit as provided elsewhere in this article.

Sec. 114-9. - Appeals.

Any action or decision by City staff pertaining to the enforcement of this article may be appealed to the City Manager and City Council.

- A. An appeal must be filed in writing and submitted to the Public Works Director or Designee, for review by the City Manager within 30 days after the decision of the Public Works Director or Designee or other City staff.
- B. Only after the City Manager or designee issues a decision may the issue be further appealed to the City Council.
- C. An appeal to the City Council must be submitted in writing including the reasons for appeal within 30 days after the previous decision.

ARTICLE II. - TREES AND SHRUBS ON PUBLIC PROPERTY

Sec. 114-20. - Planting on public property.

- A. Shrubs and evergreen trees. No Shrubs or evergreen trees shall hereafter be planted on any Right-Of-Way or easement along a street or any Parkway after July 15, 2000. The Director of Public Works or designee may grant an exemption from the Shrub and evergreen tree planting restriction when:
- (1) Such plant material is installed and maintained by the city to educate and promote public support for a healthy urban forest, and provide attractive and esthetically pleasing transportation routes, and
 - (2) Use of such plant material in certain commercial zoning districts is deemed necessary to provide suitable screening. This exemption shall be granted only when:

- a. The Director of Public Works or designee has accepted maintenance responsibility for such Shrubbery and evergreen trees, or
 - b. The abutting owners of residential or commercial property assume responsibility for maintenance and replacement of such Shrubbery, evergreen trees, and other annual/perennial display beds by formal agreement with the city, and
 - c. Said Shrubbery will be maintained at a height of 36 inches or less if located within a Sight Triangle.
- B. Deciduous trees.
- (1) Prohibited trees. Unless otherwise authorized by the Public Works Director or Designee or designee, it shall be unlawful to plant any tree of the following varieties in the Parkways or other public places of the city.
 - a. Siberian elm (*Ulmus pumila*).
 - b. Silver maple (*Aceraceae saccharinum*).
 - c. Tree of heaven (*Ailanthus*).
 - d. Poplar (*Populus*), all varieties.
 - e. Berry or fruit producing trees.
 - f. Willow (*Salix*).
 - g. Russian olive (*Elaeagnus angustifolia*).
 - h. Box Elder (*Acer negundo*).
 - i. Thorn bearing trees such as Honeylocust (*Gleditista*), Black Locust (*Robinia*), and Hawthorn (*Crataegus*).
 - j. Paper birch (*Betula papyrifera*), european White birch (*Betula pendula*).
 - k. Ash Trees (*fraxinus*), all varieties.
 - l. Callery Pear (*Pyrus callervana*-all varieties)
- C. Planting permit required. No tree of any kind shall be planted on city property, including, but not limited to, public streets and Parkways, without a permit. An application for such a permit, which shall be free of charge, shall be filed with the Director of Public Works or designee and shall contain at least the following:
- (1) Name and address of applicant;
 - (2) Address of property where the tree is proposed to be located;
 - (3) A plan drawn to scale showing:
 - a. The proposed location of each tree to be planted.
 - b. The diameter (or Caliper for trees less than three inches DBH) of each tree.
 - c. The species of each tree.
- D. Issuance or denial of permit. Within 14 days after receipt of a completed application for a tree planting permit, the Director of Public Works or designee shall review the application for compliance with applicable city regulations. If the proposed planting does not so comply, the Director of Public Works or designee shall notify the applicant in writing of the reasons for noncompliance.
- E. Regulations governing tree planting. All trees to be planted on public property shall be planted in accordance with the provisions outlined in the current Arboricultural Standards Manual on file in the offices of the Department of Public Works.

Sec. 114-21. - Spraying or pruning of trees.

- A. Pesticide application and pruning of trees. It shall be unlawful to treat diseases or pests through pesticide application or application of materials, or prune or remove branches from any Public Tree without having first secured a permit therefor. Applications for such permits or requests for exemption shall be made to the Director of Public Works or designee for approval before permission shall be granted. As a condition of a contractor obtaining a pesticide application or pruning permit the applicant shall be required to carry public liability and property damage insurance in an amount to be determined by the Director of Public Works and proof of insurance coverage shall be filed with same. When advisable, the Director of Public Works may require the posting of a performance bond to guarantee the completion of any job in accordance with adopted city standards, rules and regulations.
- B. Care shall be taken to prevent spray drift or off-target application of pesticides. It shall be unlawful to apply pesticides in a manner inconsistent with approved labels or other Federal and State Environmental Protection Agency guidelines or direction. Certified arborist required. When performing work on Public Trees, any tree service contractor performing work shall have on its staff an arborist certified by the International Society of Arboriculture. This arborist must oversee all work and certify that all work meets the City's specifications as outlined in the City Arboricultural Standards Manual.
- C. Safety standards. All tree service contractors pruning, maintaining or removing city trees must comply with safety requirements as specified in the American National Standards Institute Z133.1 Standard for Arboricultural Operations-Safety Requirements, and any applicable standards from the State of Illinois and Federal Occupational Safety and Health Administration.
- D. Topping. It shall be unlawful as a normal practice for any person or firm to top any Public Tree. Trees severely damaged by storms or other causes may be exempted from this requirement as determined by the Director of Public Works or designee.
- E. Pruning standards. Trees are pruned to preserve their health and appearance and to make adjustments that will increase their longevity. Pruning will reduce or eliminate hazards and can provide adequate clearance around utility lines. To achieve the objectives of extending the life of city trees, reducing hazards, and providing appropriate utility line clearance, pruning must be conducted using sound arboricultural methods. The city shall maintain pruning standards consistent with the most current edition of The American National Standards Institute A300 (Part One) Pruning Standard.
- F. Pruning American elm or oak trees. To help prevent the spread of Dutch Elm Disease and oak wilt, American elm or oak trees on public property shall not be pruned during the growing season, except when, in the opinion of the Director of Public Works or designee, pruning is required to alleviate an imminent hazard. Other exemptions from this requirement may be granted as deemed necessary by the Director of Public Works or designee.
- G. Pruning diseased trees. All tools used on a Public Tree known to contain an infectious tree disease shall be properly disinfected immediately after completing work in such a tree.
- H. Utility line clearance pruning.
 - (1) The city recognizes the need to maintain utility lines with regard to public safety and service. The city also recognizes the benefits provided by healthy Public Trees. In the cases

where Public Trees occupy space under or adjacent to overhead utility lines, the need to maintain utility line clearance will be balanced with the need to maintain healthy trees by using proper arboricultural pruning techniques to obtain the required clearance. Topping is not a proper arboricultural pruning technique and shall not be used in utility line clearance of Public Trees in the city.

- (2) With the exception of emergency line clearance operations, companies or organizations owning utility lines in the city, or their line clearance contractors, are required to notify the mayor of vegetation maintenance activities at least 21 calendar days before beginning the activity. Notice shall be in writing.
- (3) When necessary, as determined by the Director of Public Works or designee, a representative of the utility company, who shall be an arborist certified by the International Society of Arboriculture (ISA) or a degreed Forester, will be required to meet with the Director of Public Works or designee to evaluate the impact of pruning on specific Public Trees and to evaluate tree removals requested by the utility company. Joint agreement is required prior to all Public Tree removals. Criteria to be considered in tree removals include potential hazards, tree health and species, damage from past maintenance, and tree location.
- (4) Each Parkway tree that is removed for the purpose of utility line clearance shall be replaced with one newly planted tree. The species selection for Replacement Trees will consider the available growing space under or adjacent to utility lines and will use narrow-crowned or low-growing cultivars when appropriate. When it is not practical install a Replacement Tree at the site of a tree removal, the Replacement Tree shall be planted in another public location as identified by the Director of Public Works or designee. The utility company will reimburse the city for the cost of purchase and installation of Replacement Trees, unless other arrangements have been agreed to in a franchise agreement.
- (5) A written agreement between the city and an electric public utility that mandates or allows for specific less restrictive standards and practices for vegetation management shall take precedence over section 114-21(a) through (i)(5) of the City Code of Ordinances.
- (6) Where line clearance pruning will be performed on private property, the utility company shall be required to provide advance written notice to each individual property owner. Such notice shall be in the form of a door hanger or a mailing to each property, and shall include a phone number where questions can be directed. Said notice shall be made at least seven calendar dates in advance. Additionally, the scope of the work to be performed on Private Trees shall be determined in advance of pruning by an ISA certified arborist or a degreed Forester.

Sec. 114-22. - Planting trees under electrical utility lines.

Large-growing trees, whose canopies may grow into and disturb electrical service lines, shall not be planted directly under existing power lines or within recorded utility easements. This provision shall apply to all vegetation planted after the effective date of this article.

Sec. 114-23. - Removal of trees.

- A. Tree removal permit. It shall be unlawful to remove or cut down any tree in any street, Parkway or other city property without having first secured a permit therefor. Applications for such

permits shall be made to the Director of Public Works or designee for approval before permission shall be granted. As a condition of a contractor obtaining a tree removal permit the applicant shall be required to carry public liability and property damage insurance in an amount to be determined by the Director of Public Works or designee and proof of insurance coverage shall be filed with same. When advisable, the Director of Public Works may require the posting of a performance bond to guarantee the completion of any job in accordance with adopted city standards, rules and regulations.

- B. Issuance or denial of permit. Within ten days after receipt of a completed application for a tree removal permit, the Director of Public Works or designee shall review the application for compliance with applicable city regulations. If the proposed removal does not so comply, the Director of Public Works or designee shall notify the applicant in writing of the reasons for noncompliance. Requests for tree removals will be reviewed on an individual basis. However, general guidelines regarding acceptable and unacceptable reasons for tree removals are contained in the city Arboricultural Standards Manual. Applicants for tree removal permits are advised to review tree removal criteria prior to submitting a tree removal permit application.
- C. Safety standards. All tree service contractors pruning, maintaining or removing city trees must comply with safety requirements as specified in the American National Standards Institute Z133.1 Standard for Arboricultural Operations-Safety Requirements and any applicable standards from the State of Illinois and federal Occupational Safety and Health Administration and or American National Standards Institute regulations.

Sec. 114-24. - Obstructions to trees.

- A. Advertisements or notices. It shall be unlawful to attach any sign, advertisement or notice to any Public Tree.
- B. Wires. It shall be unlawful to attach any wire or rope or other foreign object to any Public Tree without permission of the Director of Public Works or designee.
- C. Compliance without provision. Any person or company given the right to maintain poles and wires in the streets, alleys or other public places in the city shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees in such places so far as may be possible.

Sec. 114-25. - Excavations and construction.

- A. Permit required. A permit will be required for any construction projects that, in the opinion of the Director of Public Works or designee, may impact Public Trees. This shall include all projects involving soil excavation within the Dripline of a Public Tree. Applications for such permits shall be submitted to the city community development department for review and approval by the community development director and the Director of Public Works or designee, and shall include detailed plans showing the work proposed, the tools and methods proposed to be used, and the location and DBH of all existing Public Trees.
- B. Tree Protection plan. The Director of Public Works or designee shall have the authority to formulate a written Tree Protection plan for the above-mentioned projects. This plan must be followed unless the Director of Public Works or designee gives written permission for deviations. The plan will include the specific Tree Protection measures that must be taken.

Depending on the type of construction, these measures may include, but are not limited to, fencing, tunneling in lieu of trenching, transplanting existing trees out of the way of construction, restrictions on grade changes and paving near trees, etc. Details on Tree Protection measures may be found in the city Arboricultural Standards Manual.

- C. Excavation. The Director of Public Works or designee shall have the authority to determine the excavation limits and the methods and tools to be used, to grant exemptions from the requirements when in his opinion they are warranted by unusual circumstances, and to suspend or terminate construction which deviates from the written Tree Protection plan. The Director of Public Works or designee has the authority to determine when unavoidable damage to tree roots is substantial enough to cause the tree to be unstable and/or hazardous and therefore warrant removal of the tree.
- D. Tree guards and fencing required. During certain types of construction work, the applicant shall place guards and protective fencing around all nearby trees to prevent injury to such trees. Specifications for the type and placement of guards around trees are presented in the city Arboricultural Standards Manual.

Sec. 114-26. - Injury to trees.

It shall be unlawful to injure any Public Tree.

Sec. 114-27. - Penalties.

- A. Except as provided in paragraph (b) of this Section, any person violating any provision of this Chapter shall be subject to penalties as set forth in paragraph I of Appendix B of the Code of Ordinances, and also fined the full amount of any mitigation, repair or replacement costs incurred by the city, as determined necessary by the Director of Public Works or designee.
- B. In addition, in the case of unauthorized destruction or removal of such Public Trees, the person committing the offense shall be held responsible for the cost of removal and replacement of trees at the rate of \$100.00 per inch of trunk diameter of the tree that was destroyed or removed.
- C. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 114-28. - Citations.

- A. The Director of Public Works or designee has the authority to issue citations to any persons who violate the provisions of this Chapter, violations committed by employees or contractors of companies during work-related activities will be considered violations committed by the employing or contracting company, and citations will be delivered to the employing or contracting company.
- B. All citations issued relevant to this article will advise the notified person or organization that a violation to a specific subsection of this article has occurred, and the violation will be detailed. The citation will request the notified person or organization to make payment in the amount specified in this article as settlement of the violation. The citation will also inform the notified person or organization that upon failure to settle the violation, a complaint will be filed with the city's administrative hearing officer.

Sec. 114-29. - Service of notice or citation.

Service of any notice required or citation permitted by this article may be accomplished by either of the following methods:

- (1) Personal service. This may be achieved by actual delivery to a person at least 12 years of age at the Premises.
- (2) Substituted service. This may be achieved by mailing of the notice or citation by both registered and regular mail to the person to whom the most recent general real estate tax bill for the Premises was sent. If within 14 days of mailing no proof of delivery has been received by the city, the notice or citation shall be posted on or about the front entrance to the Premises, in which case proof of signing for the registered mail shall not be necessary.

ARTICLE III. – TREES AND SHRUBS ON PRIVATE PROPERTY

Sec. 114-30 Goals.

The provisions contained in this section further the goals of section 114.2, with the addition of the following goals specific to this Article.

- A. Balance and respect the rights of private property owners to manage and utilize their property while preserving the benefits mature trees provide for the overall community.
- B. Retention of mature trees, especially Heritage Trees, when possible, and reduction of mature and/or Heritage Tree removal during development.
- C. Provide for replacement of trees lost due to removals.
- D. Improving coordination on development projects and minimize conflicts between trees and new buildings, paths, driveways, roads or utilities.
- E. Increase survivability of Protected Trees by providing protection and care standards and adhering to best management practices.
- F. Avoid damage to trees that are proposed to be preserved on site, including mechanical damage, grading and soil compaction.

Sec. 114-31 Protected Tree Removal.

Approval Required: Unless otherwise specifically authorized in this chapter, it shall be unlawful for any person without written approval from the Public Works Director or Designee to remove, injure, destroy or undertake any procedure, the result of which is to cause the death or substantial destruction of any Protected Tree as defined herein within the City limits.

Sec. 114-32 Excluded species.

The following species are exempt from the requirements of this Article.

Scientific Name	Common Name
Ailanthus Altissima	Tree of Heaven
Acer negundo	Box Elder
Morus spp.	Mulberry species
Picea pungens / abies	Blue and White Spruces
Pinus spp (other than strobus)	Pines other than White pine
Salix spp.	All Willow species
Rhamnus spp.	Buckthorn
Ulmus pumila	Siberian Elm

Sec 114-33 Exempt Properties.

The following properties are exempt from the requirements of this Article.

- A. An individual lot zoned R-1, R-2, or R-3 with an existing, occupied single family home having less than 20,000 square feet, except when there are Protected Trees that singularly or collectively have a cumulative Diameter at Breast Height (DBH) totaling 40 inches or more, and excluding an individual property or adjoining properties that is/are, or will be subject to Subdivision requirements pursuant to Chapter 98 herein within 24 months of the date of Tree Removal Permit request.

Sec 114-34 Tree Removal Permits (Private Trees).

It shall be unlawful to remove one or more Protected Trees from a non-exempt private property without securing a Tree Removal Permit for each property where trees are being removed.

- A. Public Tree removal shall be considered per Chapter 114, Article 2 of this ordinance, and is generally not permitted for removal by the adjoining private property owner.
- B. The Tree Removal Permit request shall include the following:
- (1) The applicant's name and address if different than the owner, and his interest in the property
 - (2) Owner's name and address and the owner's consent to remove the tree
 - (3) Address or legal description of the property where trees are being removed
 - (4) Name, address and phone number of contractor or other person who will have the responsibility for tree removal
 - (5) A written statement indicating the reason for removal
 - (6) The tree(s) name(s), including genus and species

- (7) Size, location and condition of the tree(s) to be removed
 - (8) Any other information deemed necessary by the Director of Public Works or designee
- C. Tree Removal Permits may be approved by the Public Works Director or Designee, and not subject to this Section 14-34, if in their sole discretion one or more of the following conditions are present:
- (1) Safety Hazard: Necessity to remove trees which pose an unacceptable (moderate or greater) and assessed risk of failure. The potential failure shall present a safety hazard to person, property, or threaten to cause a disruption of public safety, and not reasonably be mitigated by other tree maintenance procedures.
 - (2) Diseased or Poor Condition Trees: Necessity to remove trees harboring harmful insects or disease(s) that constitute a threat to other trees, or trees weakened by age, storm, fire or other injury, and in otherwise declining condition.
 - (3) Adherence to Good Forestry Practice: Necessity to observe good forestry practice, i.e., the number of healthy trees a given parcel of land will support or when removal will enhance a Tree Preservation area and the health of the remaining trees.
 - (4) Approved Landscape Plan: A plan indicating trees to be removed accompanied by a revised landscape plan, or other planning and zoning or City Council action has been approved for the site.
 - (5) Exhausted All Reasonable Efforts: Exhaustion of all reasonable efforts to preserve the tree and the denial of tree removal would deprive the property owner of reasonable use or economic viability of the property.
 - (6) Invasive Trees: The necessity to remove invasive trees in order to achieve goals of ecological restoration efforts. At the discretion of the Public Works Director or Designee, approvals to remove invasive trees may require the submittal of a restoration plan for the subject area.
 - (7) Emergencies, defined as follows:
 - a. A tree has become an imminent danger or hazard to persons or property as a result of fire, motor vehicle accident, or natural occurrence such as lightning, windstorm, ice storm, flood or another similar event; or
 - b. A tree must be removed in order to perform emergency repair or replacement of public or private water, sewer, electric, gas, or telecommunications utilities.
 - c. In the event of emergency conditions requiring the immediate cutting or removal of a tree or trees protected by this section in order to avoid danger or hazard to persons or property, a verbal emergency permit will be issued by the Public Works Director or Designee without formal application.
 - d. In the event of such emergency, if the Public Works Director or Designee is unavailable, it shall be lawful to proceed with the removal of the tree(s) without permission. The person taking such action shall document the reasons for the tree emergency by photography or videotape of the tree emergency condition and the damage or hazard created by such condition, and shall report the action taken to the public works department within two (2) business days after the action is taken.

Sec. 114-35 Replacement Trees and Fee in Lieu

- A. If a Tree Removal Permit is not issued pursuant to Section 114-34(c) above, a Tree Removal Permit may only be approved when Replacement Trees are planted and/or a Fee-In-Lieu is paid in accordance with the following schedule, as approved by the Director of Public Works or Designee:

Replacement Tree(s)	No Replacement Tree Required when Protected Tree Removal is less than 24" on permitted property 1 (one) Replacement Tree/ 24" of Protected Tree(s) being removed must be planted on the property where Protected Tree(s) is/are being removed
Fee-In-Lieu, when approved by the Director of Public Works or designee	\$300/ 12" of Protected Trees being removed from the property.

- B. Fee in lieu of replanting: If the Public Works Director or Designee determines that it would not be consistent with best arboricultural practice to plant all of the required Replacement Trees on the permitted property from which trees were removed, then an amount of money equal to the value of any required but unplanted Replacement Trees according to the formula above shall be deposited into a Tree Replacement Fund. This fund may only be used for the planting of trees on public property, or for programs supporting replacement of trees on other property within the City.
- C. Size: All Replacement Trees shall be a minimum trunk size of two inches (2") in Caliper as defined herein.
- D. Species of Replacement Trees shall be selected from the City's approved species list, or otherwise approved by the Public Works Director or Designee.
- E. Such replacements shall be made within twelve (12) months of the date of the removal of any tree(s) for which such replacement is required, and such replacements shall be installed as approved in writing by the Director of Public Works or Designee based on their assessment of the time of year most beneficial for transplanting the particular species.

Sec. 114-36 Preservation of Existing Trees.

A Tree Survey and Preservation Plan, and a Landscape Plan are required for all development activity requiring a special use or site plan review, required pursuant to Chapter 122. Site plan review will not commence until such materials are submitted to the Community Development Department in an acceptable form.

Every reasonable effort shall be made to retain existing trees in all development requiring site plan review through the integration of those trees surveyed into the site and landscape plan for the proposed development. Removal of trees designated for preservation shall only be allowed by

amendment to the approved landscape plan and shall require written approval by the Public Works Director or Designee.

The root zone of Protected Trees on lots adjacent to the lot in question on which construction activity will take place shall be carefully reviewed and considered during site plan review. Every effort shall be made during the architectural layout and design of the proposed development to preserve trees located within fifteen feet (15') of the lot line on adjacent lots through sensitivity to the root zone of said trees.

A. The Tree Survey and Preservation Plan shall include an accurate depiction of:

- (1) The location, species, DBH, condition, Dripline, and Critical Root Zones of all Protected Trees on the subject property, adjacent rights-of-way, and within fifteen (15) feet of all lot lines. All trees illustrated on the tree survey shall be numbered on the plan and tagged with the corresponding number on the site;
- (2) Location of site, scale, north arrow, location of buildings (existing and proposed) and the excavation limits required to construct proposed improvements, location of parking areas, all-natural features, and any other relevant existing or proposed information.
- (3) The scale of the tree survey shall be consistent with the engineering plan, site plan and landscape plan.
- (4) The location and type of protective fencing to be placed on the property and adjacent rights-of-way;
- (5) The location of the Dripline and Critical Root Zone areas and the types and locations of protection to be provided to minimize damage to tree roots in such areas, such as wood chips and exterior plywood;
- (6) A description of other required Tree Protection procedures, such as root pruning, crown pruning, and the like;
- (7) The location, shape, and spatial arrangement of all temporary and permanent driveways, parking areas, and temporary material storage sites and access ways;
- (8) The location of any new utility services, including water, sanitary sewer, storm sewer, gas, electric, telecommunications or any modification to existing utility services, that may impact existing private or Public Trees.
- (9) If a Grading and Drainage Plan is required by some other provision of this code, the Tree Preservation Plan shall either be incorporated into the required Grading and Drainage Plan or the Tree Preservation Plan shall depict the limits of land disturbing activities and the existing and proposed grading of the development, showing spot elevations and/or contour lines at one-foot intervals.
- (10) The Public Works Director or Designee may require the applicant to provide any additional information the Public Works Director or Designee deems necessary to determine whether the Tree Preservation plan complies with the requirements and the stated policy and purpose of this Chapter.

B. The Public Works Director or Designee shall take into consideration previous tree removal activity on the subject parcel and may require additional tree replacement to account for pre-development tree removals if subject tree removal was exempt from replacement requirements.

- C. Upon a showing of good cause by the property owner, the Public Works Director or Designee shall have the authority and discretion to modify the requirements stated herein
- D. The overall condition of each tree such as health and form as it relates to preservation shall be based on a 5-point scale with 1 being the best and 5 the worst.

Rating	Description	General Criteria
1	Good	The tree has no obvious apparent problems, crown and vigor are typical of the species, no major structural problems, no significant damage due to disease or pests, no significant mechanical damage, and normal twig condition
2	Fair	The tree may have minor problems easily correctable with pruning or normal maintenance. Typically crown contains only minor deadwood, but no significant structural problems or decay.
3	Poor	The tree has major problems, significant deadwood, decay, or structural issues. The tree must have remedial care beyond normal maintenance in order to reasonably retain the tree.
4	Very Poor	The tree has major or extreme problems that would necessitate extensive measures to correct in order to retain.
5	Dead	The tree is dead

- E. The assignment of the category ratings to specific trees is subject to the approval of the Public Works Director or Designee which shall make the final determination. The community development department may, at its discretion, retain an urban forestry consultant to assist the City to be paid by the applicant.

Section 114-37 Protection Measures

The following is a list of the minimum protection measures required for trees identified for preservation. All protection measures shall be completed in accordance with the ANSI A300 Standard (part 5 Construction Management).

Upon a showing of good cause by the property or project owner, the Public Works Director or Designee shall have the authority and discretion to modify the requirements stated herein.

A. Installation of Temporary Barriers.

- (1) Prior to the issuance of a permit, the petitioner shall install all temporary barriers necessary for the preservation of existing plant materials on the parcel to be developed and adjacent parcels as approved by the City Council.

- (2) All fencing shall be of a rigid material such as wooden snow fencing, brightly colored plastic construction fencing, chain-link fencing, or an alternative barrier, with the written approval of the Public Works Director or Designee
 - (3) Fencing shall be installed at the periphery of the drip line of the tree or at a distance of one foot (1') for every Caliper inch as measured at twelve inches (12") above the established ground level, whichever is greater, to prevent the storage of vehicles or materials and the encroachment of grading and construction equipment.
 - (4) Such fencing shall be securely fastened to metal fence posts spaced a maximum of eight feet (8') apart.
- B. Additional root zone protection and pruning.
- (1) Additional root zone protection may be used in areas where proposed improvements will encroach upon the root zone of existing trees.
 - (2) Root zone protection shall consist of three-quarter inch ($\frac{3}{4}$ ") plywood panels placed on top of the undisturbed root zone of trees designated to remain. Panels shall be covered with 4-6" of wood chips to prevent movement during high winds and by construction equipment.
 - (3) Barriers and root zone protection shall be installed and approved prior to any earthwork or construction activity and shall be maintained throughout construction to the satisfaction of the Public Works Director or Designee.
- C. No construction activity, movement, and/or placement of equipment, materials, or spoils storage shall be permitted within the root zone of any Protected Tree illustrated on the Tree Preservation plan. No excess soil, additional fill, crushed limestone, liquids, or construction debris shall be placed within the root zone or located at a higher location where drainage toward the tree(s) could conceivably affect the health of said tree(s).
- D. Underground Utility Conflicts: In the event an underground utility line is to be located within five feet (5') of the trunk of a tree designated for preservation, said utility line shall (where possible) be augured, directionally drilled, or another trenchless method utilized to prevent damage to the root system of the tree.
- E. Regulated public utilities, to the extent permitted by law, shall be responsible for adhering to said Tree Preservation plan during installation of necessary utility service lines. A property owner or contractor shall not be responsible for damages caused by the action of a public utility unless that person directed the location and manner of work of the utility.
- F. Attachments to Trees: No attachments, signs, fences, or wires, other than approved for bracing, guying or wrapping, shall be attached to trees during the construction period.
- G. Inspection of Tree Protection fencing.
- (1) Work shall not begin on the lot until the lot has been inspected by the City for compliance with the Tree Preservation plan. In no case shall Tree Protection fencing be removed, breached, temporarily removed, altered, or relocated without written authorization from the Public Works Director or Designee.
- H. An approved Tree Preservation plan shall be available on the lot before work commences and at all times during construction of the project. The general contractor shall be responsible for notifying all other contractors working on the lot and the owners of the property contiguous to the lot of the existence of the Tree Preservation plan.

- I. When transplanting is utilized to preserve trees where saving in their existing location is not possible the tree shall be within a size compatible with transplanting.
 - (1) The trees shall be moved by a tree spade or hand dug and moved by other mechanical means.
 - (2) If a tree spade is to be used, include on the plan the size of the soil ball to be moved with the tree.
 - (3) For trees proposed for transplanting that measure greater than eight inches (8") in Caliper, a detailed summary of the transplanting method and a five-year maintenance plan shall be required for review and approval by the Public Works Director or Designee.

Sec 114-38 Penalty for violating Tree Protection measures.

- A. The removal, temporary removal, alteration, or relocation of an installed Tree Protection fence without written authorization from the Public Works Director or Designee shall incur a penalty fee of one hundred dollars (\$100.00) per DBH, per occurrence. The developer/builder shall be responsible for paying this penalty to the City within two (2) business days from the date of the violation.
- B. Entering a Tree Protection area that was required to be fenced shall result in an additional cost of fifty dollars (\$50.00) per diameter inch for any tree that is damaged in the opinion of the City, including, but not limited to, grading, trenching, limb or bark removal, storage of materials or parking of vehicles. The cost of any necessary remedial tree care action shall be the responsibility of the developer/builder and shall be made payable to the City.
- C. Letter of Credit or Other Financial Guarantee: A letter of credit or other financial guarantee acceptable to the City for the purpose of assuring compliance with Tree Protection standards shall be required by the City. The letter of credit amount shall be one hundred dollars (\$100.00) per diameter inch for each damaged tree to be retained, but in no case less than ten thousand dollars (\$10,000.00) and shall be collected within two (2) weeks of the date of the damage.
- D. Enforcement: If in the opinion of the Public Works Director or Designee, the necessary precautions were not undertaken before or during construction to ensure the preservation of those trees, including evidentiary compaction or disturbance of the root zone within the drip line, the land development, building or demolition permit for the parcel shall not be issued or, if previously issued, may be revoked until such time as compliance with the Tree Preservation plan is achieved. In situations when a permit is not required, work may be stopped by the City until such time as compliance with the precautions of this section has been undertaken.

Sec. 114-39 Penalty for and replacement requirements for unauthorized removal of trees.

- A. In the event an existing Protected Tree is removed, damaged, destroyed or injured, such trees shall be replaced with new trees in accordance with the following rates:

Tree replacement formula	1 tree per every 3" removed
Minimum replanting requirements	1 tree per every 3" removed
Penalty for unauthorized removal	\$500 per tree <24", \$1000 per tree 25" and larger
Fee in lieu of replanting	\$1000 per tree

- B. Each tree cut down, destroyed, damaged, removed or injured shall constitute a separate offense. Additionally, a separate offense shall be deemed committed on each day during or on which a violation continues to occur.
- C. Following an unauthorized removal, a temporary work stoppage shall be ordered by the Community Development Department for a period of no longer than thirty (30) days.
- D. If, in the opinion of the City, and the severity of the violation warrants, the City Manager may request City Council approval to extend a temporary work stoppage beyond thirty (30) days, or to revoke or suspend the license(s) or permit(s) for the subject property.
- E. If in keeping with good forestry practices, and in the opinion of the Public Works Director or Designee the parcel cannot accommodate all of the Replacement Trees, then the property or project owner shall deposit an amount of money equal to the value of the Replacement Trees into a tree bank, or replacement fund. This fund may only be used for the planting of trees on public property, or for programs supporting replacement and replanting of trees on other property within the City.
- F. Size: All Replacement Trees for deciduous trees shall be a minimum trunk size of two inches (2") in diameter, as measured six inches (6") above the established ground, or a multi-branch tree measuring eight feet (8') in height.
- G. Species of Replacement Trees shall be selected from the City's approved species list, or otherwise approved by the Public Works Director or Designee.
- H. Time Period for Replacements: Such replacements shall be made within twelve (12) months of the date of the removal of any tree(s) for which such replacement is required, and such replacements shall be installed at a time of year most beneficial for transplanting the particular species.
- I. Stump Measurement: In the event that trees are destroyed/removed, leaving no physical evidence for measurement at diameter breast height (DBH), tree size in Caliper inches shall be measured at the stump diameter.
- J. Reasonable Means for Determining Size in the Absence of a Stump: In the event that no physical evidence for measurement remains, the Public Works Director or Designee shall determine the size of the removed tree(s) by employing reasonable methods, such as using

available aerial or street view imagery, measuring the diameter of nearby trees of similar species and age, or other methods as deemed appropriate.

- K. Fee in lieu funds must be received by the City within thirty (30) days after the date of the damage, removal or injury for which replacement is required.
- L. Removal of trees designated for preservation shall require amending the approved landscape plan or submitting an overall site landscape plan if no landscape plan is on file at the City, and shall require the approval of the Community Development Director and City Council where a landscape plan has been previously approved.

Sec. 114-40 Effective Date

The effective date for this Article III is August 1, 2023 and thereafter.