

**AN ORDINANCE FOR THE PRESERVATION AND PROTECTION  
OF TREES IN THE VILLAGE OF HOMER GLEN**

WHEREAS, the Village Board recognizes that trees are unique, intrinsically significant and valuable assets in and to the Village of Homer Glen;

WHEREAS, the Village has determined that trees are unique, intrinsically significant and valuable assets. Due to their size, species, historic association and ecology, they contribute significantly to the health and general welfare of the citizens of a community;

WHEREAS, while allowing for reasonable improvement of land within the Village, it is the policy of the Village to enhance the tree population and to maintain and protect, to the greatest extent feasible, existing trees within the Village;

WHEREAS, the planting of additional trees and the preservation of existing trees in the Village provides the following benefits to the Village and its citizens:

- A. Trees enhance the unique physical, historical and aesthetic character of the Village.
- B. Trees aid in controlling storm water runoff, stabilizing soil by preventing erosion and sedimentation and replenishing ground water supplies.
- C. Trees enhance air quality by removing carbon dioxide, generating oxygen and filtering air pollutants.
- D. Trees reduce noise through buffering and screening.
- E. Trees reduce energy consumption by providing shade and a windbreak effect.
- F. Trees enhance the habitat and food source for birds and other wildlife, which in turn control insect populations and maintain the balance of natural ecosystems.
- G. Trees enhance property values and create a desirable residential and commercial environment.

WHEREAS, the Village Board recognizes that a certain amount of trees will be lost as an inevitable consequence of development within the Village;

WHEREAS, the Village Board has determined it to be in the best interest of the Village to protect and enhance the existing tree population to the greatest extent feasible and to replace trees which are lost due to development activities;

WHEREAS, the Village Board has determined that the adoption and implementation of a tree preservation ordinance will recognize and allow a property owner to develop his or her property in a reasonable manner while protecting the various benefits to the community which are provided through the protection and maintenance of trees within the Village, including, but not limited to the prevention of soil erosion and sedimentation, improved air quality, reduced noise pollution, energy conservation through natural insulation and shading, enhanced property values, and the preservation and maintenance of the unique physical, historical and aesthetic character of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF HOMER GLEN, WILL COUNTY, ILLINOIS, THAT:

Section 1: Recitals – The foregoing recitals are hereby incorporated into this Ordinance No. 06-014 as if fully set forth herein.

Section 2: Definitions - The following definitions shall apply in connection with the application and interpretation of the provisions of this Ordinance:

- 2.1 Critical Root Zone. The circular area measured outward from the tree trunk one (1) foot of radius for each one (1) inch of diameter of the tree measured four and one-half (4 ½) feet above the existing grade at the base of the tree.
- 2.2 Development. Any proposed material change in the use or character of land, including but not limited to grading or re-grading, excavation, land clearing, placement or construction of any structure, the replacement or removal of any structure or any site improvements such as building additions, decks, fences and the like.
- 2.3 Disturb. Any act which causes or may reasonably be expected to cause a tree to die, including damage to the trees root system or trunk, compaction of ground within the root system of a tree, a change in the natural grade above the root system of a tree, and trenching within the critical root zone.
- 2.4 Disturbance Zone. Any area which would be physically altered from its natural state, including but not limited to all areas of grading, utility installation, building pads, driveways, parking areas or other structures.
- 2.5 Drip Line. An imaginary vertical line from the outermost branch tips of a tree down to the ground.
- 2.6 Illinois Big Tree Champions List. A listing of trees of historical, ecological or cultural value published by the Department of Natural Resources. A copy of the Illinois Big Tree Champions List is attached as Appendix A-1.

- 2.7 Natural Preserve. Publicly owned lands designated as park or open space or Private properties approved by the Village which are set aside to preserve their natural characteristics and qualities.
- 2.8 Protected Tree. Any tree having a size (circumference, height and spread) equal to or greater than fifty percent (50%) of the size identified on the Illinois Big Tree Champions List for such tree species.
- 2.9 Significant Tree. Any healthy tree measuring six (6) inches or larger in diameter at a height of fifty-four (54) inches (“diameter breast height (DBH)”) above existing grade at the base of the tree for deciduous trees and measuring four (4) inches or larger in diameter at a height of fifty-four (54) inches (“diameter breast height (DBH)”) above existing grade at the base of the tree for all other trees.
- 2.10 Tree Inches. The diameter of a Significant Tree measured in inches.
- 2.11 Tree Professional. A person who is a licensed or certified Arborist, Horticulturalist, Landscape Architect or restoration ecologist and who has a minimum of two (2) years practice in the fields of arboriculture, horticulture or restoration ecology.
- 2.12 Village Forester. The person or firm designated by the Mayor or the Village Manager to be the Village Forester.

Section 3: Scope.

- 3.1 The Village strongly encourages the preservation of trees on all properties within the Village.
- 3.2 The provisions of this Ordinance shall apply to the following properties:
  - a. Any property being developed which involves a preliminary plat application submitted after March 31, 2006;
  - b. Any property being developed pursuant to an application for lot division submitted after March 31, 2006; and
  - c. Any parcel or parcels of land of five (5) acres or more in size on which the owner or his agent removes or otherwise disturbs Significant Trees or Protected Trees in violation of the provisions of Section 4 or in excess of the removal and disturbance thresholds set forth in Section 4 hereof within twenty-four (24) months prior to the date on which such owner or other applicant files a preliminary plat application or an application for lot division to develop the parcel or parcels, the owner shall be required to comply with the reforestation and restitution provisions of this Ordinance as if an application identified in subparagraphs 3.2a or 3.2b above had been submitted to the Village at the time such action was taken.

- 3.3 The provisions of this Ordinance shall not apply to trees located on a parcel on which a tree farm, nursery, or greenhouse is operated provided such exemption shall only apply to trees which are considered inventory for said operation and held out for sale in the regular course of business for said operation.

#### Section 4: Tree Removal/Disturbance Threshold.

- 4.1 No person shall, prior to the issuance of a grading permit and an erosion control permit, conduct clear or wholesale tree cutting activities on any property within the Village. A violation of this provision shall constitute sufficient grounds for the Village to refuse to grant a grading permit, erosion control permit or other development permit.
- 4.2 No person causing or performing development in residential zoning districts shall remove or disturb more than fifty percent (50%) of the total inches in diameter of Significant Trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
- 4.3 No person causing or performing development in non-residential zoning districts shall remove or disturb more than seventy-five percent (75%) of the total inches in diameter of Significant Trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
- 4.4 No person shall remove or disturb any Protected Tree unless (i) such tree is located within the area of the property on which there is proposed the construction of physical improvements including, but not limited to, the building, deck, accessory buildings or structures, porch, patio, driveway, septic field, cavatet, and any utility corridor (“Building Area”), (ii)and every effort shall be made to locate the Building Area so as to avoid damage to or removal of such tree or trees and the owner and applicant have provided the Village with evidence to establish that it is not feasible to relocate the Building Area based upon the physical characteristics or condition of the lot or that such relocation creates undue hardship and financial expense.

#### Section 5: Tree Survey/Preservation Plan.

- 5.1 A tree survey and tree preservation plan shall be submitted with all preliminary plat applications and with all lot division applications. The tree survey and tree preservation plan shall be prepared and signed by a registered surveyor or Tree Professional not more than two (2) years prior to submission of the complete application and shall provide the following information:
- a. Location, diameter and species of all significant trees on the site, and an identification of all Protected Trees.

- b. Identification of which Significant Trees are (i) to be protected, preserved or undisturbed, (ii) to be removed or disturbed, and (iii) exempt from the calculation.
- c. Identification of all trees which are dead, diseased or have been damaged.
- d. Areas proposed to be designated as natural preserves where all natural vegetation, including significant trees, will be protected and preserved.
- e. Proposed disturbance zones, as identified by cross-hatching or gray-colored shading on the plan.
- f. Location and dimensions of building pads, construction zone for each lot and proposed street layout and grading contours of the site.
- g. Proposed locations and details of tree protection fencing to be installed for all trees to be preserved. No excavation or other activity shall occur within the critical root zone or within the drip line, whichever is greater, of any tree that is to be preserved.
- h. Calculation of removed or disturbed Significant Tree and Protected Tree inches on the site (excluding exempt tree inches) divided by the total Significant Tree and Protected Tree inches on the site (excluding exempt tree inches).

#### Section 6: Reforestation/Restitution Requirement.

- 6.1 If the amount of Significant Tree or Protected Tree inches to be removed or disturbed exceeds the specified threshold, the owner or applicant shall provide a reforestation plan, or a calculation of restitution, or a combination thereof. If owner or applicant causes or performs development in such a manner as to remove or cause the removal or disturbance of less than (i) twenty-five percent (25%) of the total inches in diameter of all Significant Trees and Protected Trees on a property within a residential zoning district or (ii) twelve and one-half percent (12½%) of the total inches in diameter of all Significant Trees and Protected Trees on a property within a non-residential zoning district, and provided such Significant Trees and Protected Trees are not located in an area which is otherwise unbuildable, owner or applicant shall be entitled to reduce the amount of landscaping required under Village ordinance in connection with the development of the property by a percentage determined as follows:
- a. For property in a residential zoning district, twenty-five percent (25%) minus the percentage of total inches in diameter of all Significant Trees and Protected Trees removed or disturbed; or

- b. For property in a non-residential zoning district, twelve and one-half percent (12 1/2%) minus the percentage of total inches in diameter of all Significant Trees and Protected Trees removed or disturbed.

Provided, however, such credit shall only apply to requirements for internal landscaping and shall not apply to landscaping requirements for areas in and along rights-of-ways or lot lines.

- 6.2 If a proposed development exceeds the allowable removal/disturbance threshold specified in Sections 4.2 or 4.3, as applicable, the owner or developer shall either reforest appropriate areas within the site (or, upon approval of the Village, outside the site if appropriate locations within the site are not available) or pay restitution in accordance with the provisions hereof, or provide a combination thereof. For each one (1.0) tree inch that is removed or disturbed beyond the threshold, owner or applicant shall replant one and one-quarter (1.25) inches of new trees or provide the Village with one hundred twenty five dollars (\$125.00) in restitution. Notwithstanding the foregoing, for each one (1) tree inch of a tree that is described in Section 4.4, applicant shall replant two (2) inches of new trees of the same type and species or provide the Village with two hundred fifty dollars (\$250.00) in restitution. Restitution shall be paid to the Village in cash prior to the Village's release of the signed final plat for recording, prior to approval of a minor subdivision in the event a final plat is not required, or at the time of building permit application in the event a final plat is not required or a minor subdivision is not involved. Any restitution paid shall be placed in a designated Community Planting Fund of the Village and shall be used for reforestation projects in the Village.
- 6.3 A reforestation plan shall be prepared and signed by a registered landscape architect or forester and shall comply with the following criteria:
  - a. The plan shall indicate the location and diameter or height of all trees to be planted.
  - b. No more than ten percent (10%) of the trees to be planted may be from any one plant family, unless recommended by the Village's Forester. Trees shall be selected from the "Approved Native Tree List" attached hereto as Appendix A-2 or the "Approved Non-Native Tree/Shrub List" attached hereto as Appendix A-3. Trees which are proposed to be located adjacent to or under utility lines shall be selected from the "Approved Trees for Planting under Utility Lines List" attached hereto as Appendix A-4. Trees which are proposed to be located in right-of-way areas or within twenty (20) feet of a right-of-way shall be selected from the "Approved Street Tree List" attached hereto as Appendix A-5. The Village Forester shall have the authority to permit the planting of trees or shrubs other than those set forth in Appendices A-2 through A-5.

- c. Plantings shall be of similar vegetation as found on the site, with a preference for plantings designated as native to the site.
- d. The minimum planting size for deciduous trees shall be two and one half (2.5) inches in diameter, and the minimum planting size for coniferous trees shall be eight (8) feet in height, except that up to fifteen (15) percent of the required tree inches may be of ornamental species of a lesser size, provided the required number of replacement inches is maintained.
- e. Installation of trees shall follow generally accepted professional standards.

#### Section 7: Village Plan Review.

- 7.1 The tree preservation plan and any related reforestation plan or calculation of restitution shall be reviewed and evaluated by the Village Forester. The Village Forester may make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts.
- 7.2 A tree preservation plan and reforestation plan, including the designation of any natural preserves, shall be considered for approval or denial by the Village Board as part of the review of a preliminary plat. A tree preservation plan and reforestation plan shall be considered for approval or denial by the Zoning Administrator as part of the review of a minor subdivision.
- 7.3 A tree preservation plan and reforestation plan may be amended after it has been approved. The Zoning Administrator shall have authority to approve amendments, except that a change resulting in removal of more than five percent (5%) of the Significant Tree inches that were shown as preserved on a Village Board approved tree preservation plan shall require further review by the Village Board. As part of any amendment to a tree preservation plan, the required reforestation and/or restitution shall be increased or reduced as appropriate. Requests for amendments shall be submitted prior to removal of any trees shown as preserved on an approved plan.

#### Section 8: Performance Guarantee.

- 8.1 Tree Guarantee. Replacement trees must be planted within twelve (12) months of the issuance of a grading permit or building permit if no grading permit is issued unless such time is extended by the Village Manager. The owner or applicant shall guarantee all trees planted pursuant to the reforestation plan for a period of one (1) year from the date of planting. If a tree planted pursuant to the reforestation plan dies within one (1) year from the date of planting, the owner shall remove the tree and plant a replacement tree, which shall likewise be guaranteed for a period of one (1) year from the date of its planting.

- 8.2 Following approval of the tree preservation plan, but prior to issuance of a grading permit or building permit if no grading permit is required, the owner or applicant shall provide a financial guarantee in the form of a cash escrow or letter of credit to guarantee performance in accordance with the tree preservation plan and the reforestation plan, if applicable. The guarantee amount shall be included as part of required security for public improvements.
- 8.3 The amount of the financial guarantee shall be calculated as follows: Twenty-five (25) percent of the total Significant Tree and Protected Tree inches shown as preserved that are located within fifteen (15) feet of a disturbance zone multiplied by one hundred twenty five dollars (\$125.00) per inch, plus one hundred (100) percent of the total tree inches required by the reforestation plan, if applicable, multiplied by one hundred twenty five dollars (\$125.00) per inch. The minimum financial guarantee shall be one thousand dollars (\$1,000.00). The amount of the financial guarantee shall be maintained at the calculated level until such time as (i) all trees on the site (preserved trees and new reforestation trees) have survived a winter season, which is defined as the period 31 October through 30 April for the purpose of this Section, and (ii) the Village has inspected the site and authorized a reduction or release.

#### Section 9: Inspection and Enforcement of Tree Preservation and Reforestation Plan.

- 9.1 Prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to issuance of a building permit if no grading operations are required, all sites shall be staked and fenced for tree preservation pursuant to the approved tree preservation plan. A copy of the approved tree preservation plan shall be submitted with an application for a grading permit, or with an application for a building permit if no grading permit is required. The tree preservation plan shall also indicate any reforestation trees to be planted on the site. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any grading operations, the owner or applicant shall contact the Village Forester to schedule an inspection of the staking and fence installation on the site. No construction activity, movement, parking, and/or placement of vehicles, equipment or material or spoil storage shall be permitted within the area for tree preservation. No excavation or other activity shall occur within the area encompassed by the drip line or critical root zone, whichever is greater, of any tree that is to be preserved. No excess soil, additional fill, liquids, or construction debris shall be placed within the area encompassed by the drip line or critical root zone, whichever is greater, of any tree that is to be preserved. No permits shall be issued, nor shall any grading operations commence, without first receiving authorization by the Village Forester. Tree protection fencing shall be installed prior to commencement of clearing or excavation activities and shall remain in place until after the certificate of occupancy is issued for the building on the site. Tree protection fencing shall be installed and maintained in accordance with the "Tree Protection Detail" attached hereto as Appendix B-1. In

addition to the tree protection fencing, a protective sedimentation fence shall be installed at the drip line of all Significant Trees or Protected Trees which are located down grade of any clearing, excavation and/or construction activity. The protective sedimentation fencing shall be installed and maintained in accordance with the “Protective Sedimentation Fence Detail” attached hereto as Appendix C-1 and Appendix C-2. No attachments, fences or wires other than those approved for bracing, guying or wrapping shall be attached to trees within the area for tree preservation. Approved bracing, guying and wrapping methods are depicted on the “Deciduous Tree Bracing, Guying & Wrapping Detail” attached hereto as Appendix D-1 and the “Evergreen Tree Bracing, Guying & Wrapping Detail” attached hereto as Appendix D-2.

- 9.2 Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the owner or applicant shall contact the Village Forester to schedule a second inspection of the site to verify the preservation of trees, as shown on the approved tree preservation plan. No additional permits shall be issued for any property within the plat until a fine of one hundred fifty dollars (\$150.00) per tree inch is paid for the disturbance of all significant tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the Village.
- 9.3 Prior to issuance of a certificate of occupancy, the owner or applicant (or builder if different from the owner or developer) shall contact the Village Forester to schedule a final tree preservation inspection to verify the preservation of trees and the planting of any reforestation trees, as shown on the approved tree preservation plan. This required inspection shall be made at least five (5) working days before the certificate of occupancy is requested. Prior to issuance of a certificate of occupancy, a fine of one hundred fifty dollars (\$150.00) per inch shall be paid for the disturbance of all Significant Tree and/or Protected Tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the Village.
- 9.4 A Stop Work Order may be issued by the Village in the following circumstances:
  - a. Tree removal has been undertaken in violation of this Ordinance; or
  - b. The required protective fencing has been damaged, destroyed, removed or otherwise rendered ineffective for the purpose for which it was required; or
  - c. The person performing tree removal has failed to post the appropriate performance guarantee required by Section 8; or

- d. The necessary precautions as specified in the tree preservation plan were not undertaken before construction or tree removal commenced, and/or disturbance to Significant Trees or Protected Trees has occurred or is likely to occur during construction.

The Stop Work Order shall be in effect until such time as the permittee complies with the appropriate regulations or, in the case of existing or likely disturbance to significant trees, takes corrective action acceptable to the Village to mitigate any damage to such significant trees. The fee for inspections required for issuance of an order to remove a Stop Work Order shall be in the amount of Seventy Five Dollars (\$75.00) per occurrence. Notwithstanding the payment of the aforesaid fee and the removal of a Stop Work Order issued hereunder, the person or entity to whom such order was directed as well as the owner of the property on which the tree or activity upon which the Stop Work Order was based shall remain fully liable for the payment of all otherwise applicable permit fees, and responsible to take all tree protection, tree replacement and other activities otherwise required by the Ordinance.

- 9.5 Any person found to have violated any of the provisions of this Ordinance shall, upon conviction thereof, be fined in an amount of not less than Two Hundred Fifty Dollars (\$250.00) and not more than Seven Hundred Fifty Dollars (\$750.00). A separate violation of this Ordinance shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue. In addition, such person shall be required to comply with the provisions of this Ordinance relating to reforestation.
- 9.6 The Village shall have the right to seek injunctive relief from a Court of competent jurisdiction to enjoin any acts or actions relating to the removal or threatened removal of significant trees in violation of the provisions of this Ordinance.

Section 10: Appeals - The owner or applicant may appeal in writing to the Village Manager or his designate any decision made by the Village under the provisions of this Ordinance within thirty (30) days of such decision being rendered. If the owner or permittee is not satisfied with the decision made by the Village Manager, the owner may appeal in writing to the Village Board of Trustees within thirty (30) days of the decision being rendered by the Village Manager.

Section 11: Severability - That the various provisions of this Ordinance are to be considered severable and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

Section 12: Conflicts - All prior Ordinances and Resolutions, or parts thereof in conflict or inconsistent with this Ordinance are hereby expressly repealed only to the extent of such conflict or inconsistency.

Section 13: Effective Date - This Ordinance shall be in full force and effect upon its passage and approval as provided by law.

PASSED this 28th day of March, 2005, with 5 members voting aye, 0 members voting nay, the President not voting, with 0 members abstaining or passing, and said vote being:

|               |               |                      |            |
|---------------|---------------|----------------------|------------|
| Mary Niemiec  | <u>Absent</u> | Dale Vogelsanger     | <u>Aye</u> |
| Margaret Sabo | <u>Aye</u>    | Brian Andrews        | <u>Aye</u> |
| Marcia DeVivo | <u>Aye</u>    | Christopher Locacius | <u>Aye</u> |

Approved this 28<sup>th</sup> day of March, 2006

\_\_\_\_\_  
Russ Petrizzo, Village President

Attest: \_\_\_\_\_  
Gale Skrobuton, Village Clerk

Published in pamphlet form by authority of the Village President and Trustees of the Village of Homer Glen.