

ORDINANCE NO. 2022-O-20

**AN ORDINANCE AMENDING REGULATIONS REGARDING TREES
(Chapter 29 – Tree Regulations)**

WHEREAS, the Village of Wilmette, Cook County, Illinois (“Village”), is a home rule municipal corporation as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois and, pursuant to said constitutional authority, may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the Village has reviewed and studied its regulations regarding trees on both public and private property and has determined that certain amendments regarding the Village’s current standards for tree preservation, tree protection and tree removals (hereinafter collectively referred to as “tree regulations”) are desired and doing so is in the best interests of the health, safety and welfare of the public; and

WHEREAS, the Land Use Committee of the Village Board (“LUC”) has held four (4) public meetings regarding the tree regulations; and

WHEREAS, the LUC after giving due and proper notice as required by law, held a public hearing on January 25, 2022, on the proposed amendments to the Village’s Zoning Code; and

WHEREAS, the LUC, unanimously recommended certain changes to the Village Code in regard to tree regulations, which a majority of such recommendations are reflected in this Ordinance; and

WHEREAS, certain provisions that differ from the LUC’s recommendation have also been incorporated into this Ordinance; and

WHEREAS, as stated above, the Village Board has determined that it is in the best interests of the health, safety and welfare of the public to create and amend the Village Code provisions for tree regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Wilmette, Cook County, Illinois:

SECTION 1: The above recitals are incorporated in this ordinance as if fully set forth.

SECTION 2: The Wilmette Village Code, as amended, is further amended by creating Chapter 29, Tree Regulations so that Chapter 29, shall hereafter provide as follows:

CHAPTER 29 TREE REGULATIONS

ARTICLE I IN GENERAL

Section 29-XXX Policy and Purpose

(a) Policy

While allowing for the reasonable improvement of land within the Village, it is the public policy of the Village to:

- (1) maintain and grow the tree canopy within the Village;
- (2) add to the tree population within the Village where possible;
- (3) maintain existing healthy trees within the Village; and
- (4) minimize the unnecessary Removal of trees.

(b) Purpose

Purpose. The preservation of existing trees and the planting of additional trees in the Village are intended to accomplish, where possible, the following objectives:

- (1) To preserve trees as an important public resource enhancing the quality of life and the general welfare of the Village and enhancing its unique character and physical, historical, and aesthetic environment;
- (2) To help preserve and enhance the environment;
- (3) To preserve the essential canopy and character throughout the community;

- (4) To preserve, protect and maintain trees as an integral part of the infrastructure of the Village as other critical Village infrastructure;
- (5) To enhance and preserve the air quality of the Village through the filtering effect of trees on air pollutants and replenishing the atmosphere with oxygen;
- (6) To reduce noise within the Village through the baffle and barrier effect of trees on the spread of noise;
- (7) To reduce topsoil erosion through the soil retention effect of tree roots;
- (8) To absorb excess soil moisture, thereby moderating storm water runoff;
- (9) To provide habitat and food for birds and other wildlife, including the preservation and enhancement of nesting areas for birds and other wildlife, which in turn assist in the control of insects;
- (10) To reduce energy consumption through the wind break and shade effects of trees; and
- (11) To maintain and enhance property values throughout the Village by preserving and adding to the aesthetic quality of land.

Section 29-XXX Rules of Construction

All provisions of this Chapter shall prevail as to all matters and questions arising from the subject matter of this Chapter. If there are any contradictory provisions, between another Chapter of the Village Code and this Chapter 29, the provisions of this Chapter, upon the subject matter of this Chapter shall apply.

Section 29-XXX Definitions

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

“Aggregate Diameter” means the combined diameter of a Multiple Stemmed Tree of each stem that has a diameter of six (6) inches or greater when measured at breast height as follows:

For Multiple Stemmed Trees where the trunk separations begin at lower than four and one-half (4½) feet from the ground, but higher than one (1) foot from the ground, measurement shall be taken one (1) foot below the separation.

For Multiple Stemmed Trees where the trunk separations begin below one (1) foot from the ground, the sum of the diameters of the stems measured at four and one-half (4½) feet above the average ground level at the base of the tree.

"Caliper" means the diameter of a tree as measured at a point six (6) inches above the existing grade at the base of the tree. This point of measurement is used for measuring nursery stock and replacement trees.

"Canopy" means the area occupied by the live leaves and branches of a tree.

"Certified Arborist" means an arborist that has a valid International Society of Arboriculture certification.

"Certified Arborist Review Certificate" or "Certificate" means a certificate provided and signed by a Certified Arborist that shall be filed with a Tree Removal Permit. The certificate shall, in the professional opinion, based upon Best Management Practices of the International Society of Arboriculture, of the signing Certified Arborist identify, the location, size, species, condition and form of each tree, and the purpose of the Removal for the tree sought to be Removed as applied for in the Tree Removal Permit.

"Critical Root Zone" means that circular area under a tree as determined by a one-foot radius for each one inch in DBH.

"Damage" means any act that results in the death, likely death, loss in value, loss in aesthetic value, or substantial destruction of a tree, or causes the tree to become diseased or a hazard to persons or property, as determined by the Village Forester or his or her designee. "Remove" or "Removal" of a tree shall be considered as "Damage" to a tree.

"DBH" or "diameter at breast height" means the diameter of the trunk of the tree measured in inches at a point four and one-half (4½) feet above the existing grade at the base of the tree or the Aggregate Diameter of a Multiple Stemmed Tree. This point of measurement is used for measuring mature and established trees.

"Director" means the Director of Community Development.

"Fee in Lieu" means the fee to be paid, in lieu of planting a Replacement Tree, for the Removal of a Protected Tree or Heritage Tree.

"Governmental Entity" means the United States Government, the State of Illinois, or any Political Subdivision of the State.

"Hazardous Tree" means a tree or any part of the tree:

- is damaging an existing structure or utility; or
- that because of damage, or because of its deteriorated or damaged state constitutes a possible risk for harm associated with the tree or part of the tree falling on any person or property.

"Heritage Tree" means any tree of the following genera or species or size:

- All trees in the genus Quercus (Oaks) greater than or equal to 10" DBH;
- All trees in the genus Carya (Hickory) greater than or equal to 10" DBH; or
- All trees greater than or equal to 20" DBH.

“Invasive Trees” shall be those trees as determined by the Director of Public Works & Engineering and provided for in a Village manual, that regardless of size shall not be considered to be a Protected Tree or Heritage Tree. The list of Invasive Trees may be amended as necessary and as determined by the Director of Public Works & Engineering.

“Multiple Stemmed Tree” means a single tree made up of two (2) or more main stems originated below the height used for measuring DBH.

“Neighbor Notification” means a notice, on a form provided by the Village, to be delivered to the required properties when certain trees are sought to be Removed.

"Protected Tree" means any single trunk tree or any multi-stem tree with at least one stem, having a DBH of six (6) inches or more when located on private property, or a tree of any size when planted as a Replacement Tree.

“Remove” or “Removal” means the causing or accomplishing of the actual physical removal of a tree.

"Replacement Tree" means a tree on the Village’s list of approved tree species, planted pursuant to the Removal of a Protected Tree or Heritage Tree. The list of approved tree species appropriate to be planted as a Replacement Tree, as well as the required size and maturity of the Replacement Tree sought to be planted, shall be provided for in a Village manual and may be amended as necessary and as determined by the Director of Public Works & Engineering.

"Tree Protection Area" means the area within the Critical Root Zone of a tree.

"Tree Protection Plan" means the plan prepared by a Certified Arborist as required by this Chapter.

“Tree Removal Permit” means the permit required by this Chapter prior to the Removal of a Protected Tree or a Heritage Tree.

“Tree Survey” means a graphic display of all existing trees upon the property and within fifteen (15) feet of the lot lines on an adjoining property, with a six-inch (6") DBH or greater and existing trees of any size located on the adjacent rights-of-way, which survey shall also contain the approximate outline of the Critical Root Zone of each and every tree located upon the subject property, within fifteen (15) feet of the lot lines, and the adjacent rights-of-way. The survey shall also identify the DBH and species of each tree, and an opinion, from a Certified Arborist, of the condition and form of each tree.

“Yard” means the required open, unoccupied space on a lot, unobstructed from the ground to the sky, except for those encroachments allowed by Appendix A of the Village Code. Yard size shall be determined by the yard regulations of the Zoning District as provided for in Appendix A of the Village Code, in which the property is located.

ARTICLE II TREE PRESERVATION

Sec. 29 – XXX General Regulations.

(a) Unlawful to Damage or Remove a Tree.

It shall be unlawful for any person to Damage any tree within the Village. It shall be unlawful for any person to Remove any tree within the Village, unless expressly authorized by this Chapter, without first obtaining a Tree Removal Permit from the Village. Both the property owner and the agent of the property owner violating this Article shall be jointly liable.

(b) Tree Removal Permits

When a Tree Removal Permit is required by this Chapter or any other part of the Village Code, prior to the issuance of a Tree Removal Permit, an applicant shall:

- (1) submit the following information on an application form to be provided by the Village:
 - a. The address of the property where the tree is to be Removed;
 - b. The name, phone number, and email address of the property owner where the tree is to be Removed;
 - c. The name, address, phone number and email address of the entity and/or individual that will be Removing the tree;
 - d. Provide a description of the:
 - i. the species or common name of the tree to be Removed;
 - ii. location of the tree to be Removed which, in the opinion of the Director, may be required to be depicted upon a Plat of Survey or another document acceptable to the Director,
 - iii. the DBH of the tree to be Removed, and
 - iv. a photographic documentation of the tree to be Removed.
- (2) pay the required Tree Removal Permit Fee of \$75 per tree to be Removed, which shall be in addition to the Fee in Lieu and any other fees or costs required by the Village;
- (3) when required by this Article, shall pay the required Fee in Lieu, which shall be in addition to the Tree Removal Permit Fee and any other fees or costs required by the Village; and
- (4) when required by this Article, submit at the time the application is filed, a Certificate, a Tree Survey, and proof of Neighbor Notification.

(c) Neighbor Notification

When there is a requirement for Neighbor Notification, an applicant shall provide notice of the Removal to the property owners of the following properties:

- any contiguous property;
- the property or properties directly on the other side of the street; and

- the property directly on the other side of the alley

in the form to be provided by the village. Proof of said notice, by means of a signed affidavit form, shall be submitted at the time the application is filed. Neighbor Notification shall be required in addition to any other notice required by the Appendix A of the Village Code.

Neighbor Notification shall be provided at least five (5) business days prior to the Removal of any trees.

(d) Replacement Trees and Fee in Lieu

When a Protected Tree or a Heritage Tree is Removed, the applicant shall plant the required number of Replacement Trees, or if authorized by the Director, pay the Fee in Lieu or a combination thereof as provided for below.

- (1) The following Table 1 shall be used to determine, based upon the size of the Protected Tree Removed, the required number of Replacement Trees to be planted on the property where the Protected Tree was Removed or the Fee in Lieu, or a combination thereof. Any Fee in Lieu authorized to be paid by the applicant shall be in addition to any other fees or costs charged by the Village.

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

- (2) Based upon the size of the Heritage Tree Removed, the applicant shall plant the required Replacement Trees on the property where the Heritage Tree was Removed as calculated by an inch for inch basis, or if authorized, pay a Fee in Lieu in the amount of \$125 per inch Removed, or a combination thereof. Any Fee in Lieu authorized to be paid by the applicant shall be in addition to any other fees or costs charged by the Village.
- (3) The Director is authorized to reduce the number of required Replacement Trees and the Fee in Lieu as follows:
 - a. upon the completion of a Best Management Practices – Conservation Suitability Assessment by the Village Forester; and
 - b. the Village Forester has determined that the Protected Tree or the Heritage Tree to be Removed is in a less than “good” condition.

Sec. 29 – XXX Tree Removal – General

(a) Removal of Dead, Dying, Diseased, Hazardous Trees, or Invasive Trees

- (1) The owner of any property within the Village shall Remove or caused to have Removed any tree that is dead, dying, diseased, or a Hazardous Tree from their property. The owner of any property within the Village may Remove an otherwise healthy Invasive Tree from their property.
- (2) The property owner or the property owner’s agent may not Remove a Protected Tree or a Heritage Tree that is also a dead, dying, diseased, or a Hazardous Tree, or an Invasive Tree without first obtaining a Tree Removal Permit.
- (3) The Tree Removal Permit fee, the Replacement Tree requirements, and the Fee in Lieu of replacement shall not apply to the Removal of any dead, dying, diseased tree, or a Hazardous Tree, or an Invasive Tree.
- (4) The health and potential viability of a dead, dying or diseased tree and the danger posed by a Hazardous Tree shall be determined by the Village Forester prior to the issuance of a Tree Removal Permit.
- (5) If the dead, dying or diseased tree or Hazardous Tree is a nuisance, the provisions of Chapter 16 shall also apply.

(b) Removal of Heritage Trees – General

Unless otherwise authorized in this Subsection (b), the Removal of a Heritage Tree is prohibited except upon approval of a Variation.

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

(1) Definition applicable to this Subsection (b)

For purposes of this Subsection (b), the term “Construction” shall mean the demolition of a Principal Structure (as defined in Appendix A), the construction of a new Principal Structure, the construction of an addition to a Principal Structure, or the construction of a new detached garage.

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

a. Zoning Board of Appeals Review

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

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

- i. the particular physical condition and location of the Heritage Tree would impose upon the owner a hardship or practical difficulty if the Heritage Tree were not to be Removed;
- ii. there are no other reasonable alternatives to Removing the Heritage Tree

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

b. Administrative Zoning Review

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

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

- i. a hardship or practical difficulty exists because the existing Heritage Tree makes it impossible and/or impractical to perform the Construction in a size and configuration allowed by right on a lot of similar size;
- ii. there are no reasonable alternative methods to perform the Construction that would preserve the condition of the Heritage Tree;
- iii. the Heritage Tree to be Removed is not expected to remain in a “good” condition, if it remains in place, because of the Construction.

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

A denial by the Zoning Administrator of an application for Administrative Zoning Review pursuant to this subsection shall be considered a final decision except only

an applicant may apply for a Variation seeking the same relief sought through the Administrative Zoning Review in the manner provided for in this subsection.

c. Director Review

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

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

- i. the Heritage Tree to be Removed is not expected to remain in a “good” condition, if it remains in place, because of the Construction.

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

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

(3) Removal of Heritage Trees – not in the Required Yard

A Heritage Tree located on a property that is not in the required Yard may only be Removed as provided for in this subsection and upon submittal of proof of Neighbor Notification.

(4) Removal of Heritage Trees during Construction

- a. Removal of Heritage Trees during Construction – Required Yard, except Yard, Interior Side

A Heritage Tree located in the required Yard, except the required Yard, Interior Side (as defined in Appendix A), of a property is prohibited from being Removed, except when the Removal is performed as a necessary part of Construction and is approved by the Zoning Administrator as part of the Administrative Zoning Review.

- b. Removal of Heritage Trees during Construction – Required Yard, Interior Side

A Heritage Tree located in the required Yard, Interior Side of a property is prohibited from being Removed, except when the Removal is performed as a

necessary part of Construction and is reviewed and approved by the Director as part of the Director Review.

(c) Removal of Protected Trees

(1) A Protected Tree located on a property may only be Removed upon the following:

- a. Submittal and approval of a Tree Removal Permit; and
- b. All Replacement Trees have been planted, Fee in Lieu paid in full, or any combination thereof. For those Replacement Trees that cannot be planted prior to Removal of the Protected Tree, the Director may provide for a schedule for the planting of the Replacement Trees.

(d) Removal of Trees without a Tree Removal Permit

A tree may be Removed without a Tree Removal Permit when the tree is not otherwise classified as a Protected Tree or as a Heritage Tree.

(e) Removal of Trees on Public Property and Right-of-Way

Any tree located on Village owned property or upon the right-of-way under the jurisdiction of the Village shall not be Removed by any individual or entity other than the Village, except as provided for in Chapter 20 of the Village Code.

Sec. 29 – XXX Penalty

(a) Any person who violates any of the provisions of this Article, shall be guilty of a violation punishable by a fine of not less than \$50.00 and not more than \$7,500.00 for each offense. A separate offense shall be deemed committed for each day that an offense continues.

(b) The fine imposed shall not include any fees or Fees in Lieu imposed in this Article, which shall be charged in addition and separate of any fine.

(c) Any Damage or Removal of a tree located upon Village owned property or right-of-way under the jurisdiction of the Village, the value of the Damaged or Removed tree as determined by industry standard, plus the cost of the replacement of the tree of species and size as determined by the Village, shall be charged in addition and separate of any fine.

(d) Exemption of other Governmental Entities

(1) The provisions of this Article do not apply to any Governmental Entity Removing a tree from their own property.

(2) The provisions of this Chapter do not apply to the Village of Wilmette when the Village is Removing a tree from Village owned property or right-of-way under the Village's jurisdiction.

(e) Village Manager authority.

Upon an individualized assessment of an application, the Village Manager, may, upon good cause shown, waive or reduce the Tree Replacement requirements or the Fee in Lieu in cases where imposing such requirements would be excessive or otherwise unjust.

ARTICLE III TREE PROTECTION

Sec. 29-XXX. - General regulation.

Except as otherwise provided or as authorized by the Director, all trees located on private property and upon adjacent rights-of-way or public property, where construction work is occurring pursuant to a Building Permit or another permit issued by the Village, shall be protected from damage by means of the requirements stated herein. Both the property owner and the agent of the property owner violating this Article shall be jointly liable.

Sec. 29-XXX - Tree Protection Requirements.

- (a) All protected trees shall be protected with temporary fencing placed along the Tree Protection Area. The temporary fencing shall be made of plastic, wood or metal, and shall be secured with metal posts set no farther apart than three feet on center. Where the applicant of the permit has demonstrated to the Village that it is not reasonably practical to install a temporary fence along the entire Tree Protection Area, the Director shall have the authority and discretion to modify the requirements stated herein, including requiring that a surface barrier such as mulch or plywood be placed on those areas unprotected by fencing.
- (b) Construction materials shall not be stored within the fenced Tree Protection Area and shall not be stored on the construction site so as to cause the natural drainage flow to be diverted toward the protected trees.
- (c) A Tree Survey and Tree Protection Plan shall be provided to the Director prior to the demolition of a structure, new construction of a structure, or construction of an addition to a structure which will result in an increase of 50 percent or more of lot coverage (as defined in Section 30-2.1.3 of Appendix A of this Code) on the property.
 - (1) The Tree Protection Plan shall include an accurate depiction of:
 - a. the location, species, DBH and Critical Root Zones of all protected trees on the subject property, adjacent rights-of-way, and within fifteen (15) feet of the lot lines;
 - b. the location and type of protective fencing to be placed on the property and adjacent rights-of-way;
 - c. the location of 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;
 - d. a description of other required tree preservation procedures, such as root pruning, crown pruning, and the like;
 - e. the location, shape, and spatial arrangement of all temporary and permanent driveways, parking areas, and temporary material storage sites and access ways; and

- f. 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.
- (2) If a Grading and Drainage Plan is required by some other provision of this code, the Tree Protection Plan shall either be incorporated into the required Grading and Drainage Plan or the Tree Protection 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.
- (3) The Director may require the applicant to provide any additional information the Director deems necessary to determine whether the tree protection plan complies with the requirements and the stated policy and purpose of this Article.
- (d) Upon a showing of good cause by the property owner, the Director shall have the authority and discretion to modify the requirements stated herein.

Sec. 29-XXX. - Notification to Adjacent Property Owners.

Prior to the issuance of any Building Permit for construction work which would change the footprint of the structure, the property owner shall provide written notice of the intended construction work, in a form to be provided by the Village, to any adjacent property owner whose property contains a tree within 15 feet of the property line. Proof of notice shall be the submission of an affidavit, signed by the property owner, stating that written notice has been served and received by all adjacent property owners. No Building Permit shall be issued until five (5) business days after receipt of notice by the adjacent property owners.

Sec. 29-XXX. - Violations and Penalties.

- (a) It shall be unlawful for any person to Damage, Remove, partially Remove, or fail to maintain any tree protection required under this Article.
- (b) Any person who violates any of the provisions of this Article shall be guilty of a violation punishable by a fine of not less than \$50.00 and not more than \$750.00 for each offense. A separate offense shall be deemed committed for each day that an offense continues.

SECTION 3: The Wilmette Village Code, as amended, is further amended in Chapter 2, “Administration,” Article XLVI “Administrative Adjudication System” Subsection 2-1305(e)(3) “Table of Offenses and Fines” by inserting the new text shown in underlined bold type below in the manner and form shown below in Table of Offenses and Fines:

TABLE 1 — Section 2-1305

Code section	Offense	Settlement Amount Paid Prior to Hearing Date	Minimum Fine on Hearing Date	Maximum Fine on Hearing Date	Appearance Required
Chapter 12 Miscellaneous Offenses					
<u>Article II of Chapter 29</u>	<u>Tree Preservation (private property trees)</u>		<u>\$50.00</u>	<u>\$7,500.00 + the permit fees and Fees in Lieu</u>	<u>Yes</u>
<u>Article II of Chapter 29</u>	<u>Tree Preservation (Village owned trees or trees in right-of-way under the Village's jurisdiction)</u>		<u>\$50.00</u>	<u>\$7,500.00 + the amount for the value of the tree and cost of replacement of the tree</u>	<u>Yes</u>
<u>Article III of Chapter 29</u>	<u>Tree Protection</u>		<u>\$50.00</u>	<u>\$750.00</u>	<u>Yes</u>

SECTION 4: The Wilmette Village Code, as amended, is further amended in Appendix A – Zoning Ordinance, Article 30-5, “Applications and Approval Processes,” Section 30-5.6(d) “Administrative Zoning Review,” by inserting such new text in the manner shown in underlined bold type below, so that said Section 30-5.6(d) shall hereafter provide as follows:

(d) Qualifying Administrative Zoning Review Variations. The administrative zoning review process applies only to single-family detached dwellings and single-family detached dwelling accessory structures and only in the following instances, listed below. Any project that requires more than one (1) request for a variation where any one (1) of those variations is not listed below or requires a special use do not qualify for the administrative zoning review process. In such case, the project is subject to the variation or special use process, as described in this section.

- (1) For an addition into a required front yard or side yard adjoining a street that is in line with an existing non-conforming wall of a detached dwelling, or provides a greater setback that still requires relief, where the existing setback is within twenty percent (20%) of the minimum setback required.

- (17) For the installation of a swimming pool, spa or hot tub that is not within an enclosed building.
- (18) For the Removal of a Heritage Tree, as provided defined in Chapter 29 of the Village Code, located in a required yard as provided for in Chapter 29.**
- (19) For a single-family principal structure, allowable encroachment on a single-family principal structure or a single-family detached garage setback relief necessary to preserve a Heritage Tree as defined in Chapter 29 of the Village Code as follows:**
- a. In a required front yard or side yard adjoining a street where the proposed principal or accessory structure setback is within twenty percent (20%) of the minimum setback required or**
- b. In an interior side yard or rear yard where the proposed principal or accessory structure setback is within forty percent (40%) of the minimum setback required.**
- (20) For the reduction of one full parking space as otherwise required by Section 30-14.4.A.2 and Section 30-14.4.A.3 to preserve a Heritage Tree as defined in Chapter 29 of the Village Code.**

SECTION 5: The Wilmette Village Code, as amended, is further amended in Appendix

A – Zoning Ordinance, Article 30-5, “Applications and Approval Processes,” Section 30-5.6(f) “Administrative Zoning Review,” by inserting such new text in the manner shown in underlined bold type below, so that said Section 30-5.6(f) shall hereafter provide as follows:

- (f) Approval Standards. The following approval standards apply to administrative zoning reviews. Administrative zoning review approvals may only be granted when the applicable standards have been met.
- (1) Additions, Detached Garages, New or Expanded Openings, Roof Pitch, Impervious Coverage, Permitted Encroachments, Front Porches and Decks, **setback relief to preserve a Heritage Tree, reduction of a Parking Space to preserve a Heritage Tree.**
- (A) The particular physical conditions, shape or surroundings of the property would impose upon the owner a practical difficulty or particular hardship, as opposed to a mere inconvenience, if the requirements of the Ordinance were strictly enforced.
- (B) The plight of the property owner was not created by the owner.

- (C) The difficulty or hardship resulting from the application of this Ordinance would prevent the owner from making a reasonable use of the property. However, the fact the property could be utilized more profitably with the variation than without the variation is not considered as grounds for granting the variation.
- (D) The proposed variation will not impair an adequate supply of light and air to adjacent property or otherwise injure other property or its use, will not substantially increase the danger of fire or otherwise endanger the public health, safety and welfare, and will not substantially diminish or impair property values within the neighborhood.
- (E) The variation, if granted, will not alter the essential character of the neighborhood and will be consistent with the goals, objectives and policies set forth in the Comprehensive Plan.

SECTION 6: The Wilmette Village Code, as amended, is further amended in Chapter 20, “Public Ways,” Article VII, “Trees and Shrubs on Public Property” by deleting text of said Article VII in the manner shown in strikethrough type below and inserting such new text in the manner shown in underlined bold type below, so that said Article VII shall hereafter provide as follows:

Article VII. ~~Trees And Shrubs on Public Property~~ **Lawn Sprinklers**

Sec. 20-179. ~~Placement prohibited; permit; removal.~~

~~It is unlawful for any person to plant, maintain, remove or cut down any tree, bush or shrub in a public street, parkway or any public place without first obtaining a Right of Way Permit as provided in article I of this chapter. All trees and shrubs so planted shall be placed subject to the directions and approval of the Director of Engineering and Public Works.~~

Reserved

Sec. 20-180. ~~Tree protection.~~

~~(a) No person, firm, corporation, or utility company shall excavate any ditches, tunnels or trenches or construct any driveway, within the public right of way, without first obtaining a Right of Way Permit as provided in article I of this chapter. Tree protection measures may be required as a condition of obtaining the permit.~~

~~(b) All trees on any public right of way near any excavation, construction of any structure, or street construction, repair or improvement, shall be protected by erecting a highly visible physical barrier around each tree so as to avoid all injury to the trunk, crown, and root areas~~

~~of the tree; and all building material, dirt, soil, or other debris shall be kept outside a radius as specified by the Director of Engineering and Public Works from any tree on the public right of way. Protective barriers shall mean snow fencing or similar material, not single strand wire or plastic flagging.~~

Reserved

Sec. 20-181. ~~Violations and Penalties.~~

~~(a) It shall be a violation of this Code for any person or entity to damage or remove, or cause to be damaged or removed, a tree located on the parkway or other public property.~~

~~(b) It shall be a violation of this Code for any person or entity to commence any work or construction in or near the parkway or other public property without the prior installation and maintenance of tree protection measures.~~

~~(c) Any person or entity who violates the provision of this section shall be fined as provided for in section 2-1305 of this Code.~~

Reserved

Sec. 20-182. Lawn sprinklers on the public right-of-way.

It is unlawful for any person to install or maintain a lawn sprinkling or other irrigation system, whether wholly or partially underground, in the public right-of-way without having first applied for and received a Right-of-Way Permit, as provided in article I of this chapter. All water lines, sprinkler heads, and other appurtenances must be separated by no less than one foot from the public sidewalk, curb or any other public infrastructure. Any water lines crossing underneath the public sidewalk must be no less than one foot beneath the bottom of the public sidewalk.

SECTION 7: The Wilmette Village Code, as amended, is further amended in Chapter 8, “Housing and Building Regulations,” Article XII, “Tree Protection During Construction” by removing said Article in its entirety and replacing said Article and each Section contained therein with “Reserved.”

SECTION 8: The Wilmette Village Code, as amended, is further amended in Chapter 8, “Housing and Building Regulations,” Article V, “Regulation of Land Disturbing Activities,” Division 4, “Permit Application Procedures” by deleting text of said Division 4 in the manner

shown in strikethrough type below and inserting such new text in the manner shown in underlined bold type below, so that said Division 4 shall hereafter provide as follows:

DIVISION 4. – PERMIT APPLICATION PROCEDURES

Sec. 8-208. - Information required.

- (a) No request for a Grading and Drainage Permit shall be reviewed until the following items have been submitted to the village:
 - (1) Application form;
 - (2) Permit fee;
 - (3) If required, two copies of the proposed Site Grading and Drainage Plan; and
 - (4) Proof of notice to adjacent property owners.
- (b) For land-disturbing activities over one acre in area, the applicant must also obtain and satisfy the requirements of any applicable NPDES IEPA construction permit.

Sec. 8-209. Grading and Drainage Permit application form.

- (a) The applicant shall submit the Grading and Drainage Permit application form supplied by the village and provide the following information:
 - (1) Address and permanent index number (PIN) of the site;
 - (2) Name, address and telephone number of the applicants;
 - (3) Name, address and telephone number of all contractors, subcontractors or other persons performing the activities at the site;
 - (4) Description and schematic depiction of the project; and
 - (5) Signatures of the owners of the site.
- (b) **In the case of projects requiring the Removal (as defined in Chapter 29) of a tree, the requirements of Chapter 29 must be shown to have been or will be met.** ~~In the case of projects requiring a Grading and Drainage Permit under sections 8-176(2) and 16-176(4), which are also determined not to require a Site Grading and Drainage Plan under section 8-210 but which will result in an increase of 50 percent or more of lot coverage (as defined in section 30-2.1.3 of appendix A of this Code) on the subject property, the Grading and Drainage Permit application shall be supplemented to disclose whether any tree or trees will be removed as part of the project that require a Tree Removal Permit pursuant to article IX of this chapter. If one or more such trees will be removed as part of the project, then the applicant shall also submit additional materials to show that either:~~

- ~~(1) After the trees are removed, the property will have a minimum canopy coverage of at least 35 percent of the total lot area, as described in section 8-210(e)(2);~~
- ~~(2) That the tree removed will be replaced with another tree of at least two inches caliper and also of the same Canopy Size Category as set out in the Species and Mature Canopy Area Table provided for in in section 8-210(e)(2);~~
- ~~(3) The provisions of this subsection (b) shall apply only to projects not covered by the requirements of section 8-210.~~

Sec. 8-210. Site Grading and Drainage Plan.

- (a) *Application review.* Upon submittal of a complete application form and Grading and Drainage Permit fee, the Village Engineer will determine whether a Site Grading and Drainage Plan will be necessary and, if so, the level of plan detail that will be required.
- (b) *Plan detail.* The Site Grading and Drainage Plan may include:
 - (1) Name, address and telephone number of the civil engineers responsible for the preparation of the Site Grading and Drainage Plan;
 - (2) Legend;
 - (3) Scale of drawing;
 - (4) Site address;
 - (5) Existing and proposed topography of the entire site taken at one-foot contour intervals;
 - (6) Contour intervals that extend a minimum of 25 feet off-site, or sufficient enough to show on- and off-site drainage and spot elevations as may be appropriate;
 - (7) Site property lines and all drainage and utility easements on, under or across thereto;
 - (8) Location and representation of all existing natural drainage and run-off patterns, swales and flows, as well as manmade drainage facilities, and all proposed natural and manmade drainage facilities, including all surface and subsurface drainage devices, walls, cribbing and dams on or within 50 feet of the site;
 - (9) Delineation of the drainage area and the drainage area served by all existing and proposed downspouts, footing drains and sump pump discharges, and the disposition of discharge therefrom;
 - (10) Location of the proposed areas of excavation, fill, storage and disposal of earth materials, including the method of soil protection such as seeding, burlap, or hay bales;
 - (11) **A Tree Survey and Tree Protection Plan as defined in Chapter 29 of the Village Code; and the location and identification of all other existing and proposed vegetation;** ~~Location and identification of existing vegetation, proposed vegetation to be placed on the site, and vegetation to be removed from the site, specifically including the location, species and size in diameter breast height (DBH) stated in~~

~~inches and measured at 4½ feet above the existing grade at the base of every existing tree located on the subject property;~~

- (12) Location of any existing and proposed buildings and structures, including top of foundation, garage slab, and elevations of proposed finished grade at all significant points around the proposed building or structure, including window wells, patios and swimming pools;
 - (13) Impervious surface area calculation;
 - (14) Delineation of the measures that will be used to control surface erosion and run-off from the site after all buildings, structures and permanent improvements have been erected on the site;
 - (15) Elevation and descriptions of the benchmark utilized for the Site Grading and Drainage Plan. The FEMA datum should be used for all properties located either entirely or partially in the regulatory floodplain;
 - (16) Three to five representative cross-sections for each side yard between another residence. Cross-sections shall extend between the top of foundation (T/F) of the proposed residence to the T/F of the existing residence;
 - (17) Locations of all manholes, utility structures, fire hydrants, street lights, curbs, sidewalks, transformers, junction boxes and pads/pedestals located in the public right-of-way, or in any easements on the subject property;
 - (18) To the extent the Site Grading and Drainage Plan includes a connection to a village storm sewer, provide the size and location of all sanitary and storm sewers, water mains, and open ditches located in the public right-of-way or in any easement. The rim and invert elevation shall be provided for all storm and sanitary structures within or near the vicinity of the subject property. The direction of flow for all storm and sanitary sewers and open ditches must also be provided, as well as the methods to be used to protect them;
 - (19) Location of stone haul road;
 - (20) Certification. Certification that the proposed project will not result in drainage, erosion or run-off which adversely impacts adjacent properties or public rights-of-way; and
 - (21) Location of soil storage.
- (c) *Submittal of Site Grading and Drainage Plan.* (1)—The Site Grading and Drainage Plan shall be prepared and stamped by a licensed Professional Engineer, and drawn to a scale of one inch equals 20 feet. The plan shall be submitted on paper measuring 11 inches by 17 inches. With the prior approval of the Village Engineer, for certain large or multi-parcel projects, the plan may be on paper measuring 24 inches by 36 inches. Two copies of the Site Grading and Drainage Plan shall be submitted to the Village Engineer.
- ~~(2) If the Site Grading and Drainage Plan is submitted in connection with demolition or construction of a principal building or structure on a lot zoned R, R1 or R2, then the Site Grading and Drainage Plan shall additionally show that, upon completion of the~~

permitted work, the site will meet the minimum canopy coverage requirement of this subsection.

- a. ~~The minimum canopy coverage shall be no less than 35 percent of the total lot area. For the purposes of this section, the term "canopy coverage" means the percentage of the total lot area of the subject property, expressed in square feet, covered or delimited by the drip line of:

 - 1. ~~All existing trees on the subject property proposed to be retained, and for which the applicant will provide such tree protection as is necessary to protect and retain said trees;~~
 - 2. ~~All existing trees on adjacent property or adjacent public right of way whose canopies extend into total lot area of the subject property;~~
 - 3. ~~All proposed new trees to be planted on the subject property, projected at maturity, in accordance with the Species and Mature Canopy Area Table. If the permit applicant intends to satisfy the canopy coverage requirements of this section by planting trees of a species not referenced in the Species and Mature Canopy Area Table, then the projected mature canopy coverage shall be as reasonably determined by the Village Engineer. All new trees planted under this subsection shall be credited toward the required minimum canopy coverage based on 100 percent of their projected canopy at maturity, regardless of whether that projected canopy at maturity would extend over adjoining property;~~
 - 4. ~~For the purposes of this section, the term "total lot area" shall not include any portion of the lot subject to public right of way, utility easements or right of way, vehicular easements or pedestrian easements;~~
 - 5. ~~For the purposes of this section, the Species and Mature Canopy Area Table shall consist of a reference table published, and amended from time to time, by the village and approved by Resolution of the President and Board of Trustees, said table to set forth descriptions of various species and cultivars of trees, their mature canopy area, canopy size category, and such other data as may be necessary and appropriate under the provisions of this section.~~~~
- b. ~~In calculating the canopy coverage of the subject property, each tree on the subject property that will be retained under subsection (c)(2)a.1 of this section shall have its canopy coverage multiplied by 1.5 if such tree is one of the following species and of the size indicated in diameter breast height (DBH):~~

<i>Species (all cultivars)</i>	<i>Minimum Size (in DBH)</i>
Oak	24 inches
Hickory	16 inches
American Elm	30 inches

- e. ~~If the minimum tree coverage requirement set forth in this subsection (c)(2) is to be accomplished, in whole or in part through the planting of new trees, then the Site Grading and Drainage Plan shall show the location, species and size of such new trees as are reasonably approved by the village.~~

- f. ~~If the minimum tree coverage requirement set forth in this subsection (c)(2) is to be accomplished, in whole or in part, through the preservation of existing trees on the subject property, then the Site Grading and Drainage Plan shall show the location, species and size of each such tree and the protection measures that shall be installed and maintained throughout the course of construction in order to prevent damage to the tree or compaction of its Critical Root Zone, in conformance with the requirements of article XII of this chapter.~~
- g. ~~If the Site Grading and Drainage Plan identifies any trees on adjacent property or public right-of-way the canopy coverage of which extends over the subject property as described in subsection (c)(2)a.2 of this section, then the Site Grading and Drainage Plan shall show the location, species and size of each such tree and the protection measures that shall be installed and maintained throughout the course of construction in order to prevent damage to the tree or compaction of its Critical Root Zone, in conformance with the requirements of article XII of this chapter.~~
- (d) *Notice to adjacent property owners.* The applicant shall provide notice of the land-disturbing activities to any adjacent property owner, in the form to be provided by the village. Proof of said notice, by means of a signed affidavit form, shall be submitted at the time the application is filed. **No Building Permit shall be issued until five (5) business days after receipt of notice by the adjacent property owners. This notice shall be in addition to or made in conjunction with any Neighbor Notification requirements provided for in Chapter 29.**
- (e) *Submission of additional data.*
- (1) The Village Engineer shall review all documentation submitted pursuant to this section and, if deemed necessary to evaluate potential adverse consequences from the proposed land-disturbing activity, the Village Engineer has the authority to request additional data, clarification or correction of data already submitted, and the authority to require additional or alternate measures based upon site conditions.
 - (2) Without limiting the generality of the foregoing, the Village Engineer may require the applicant to submit additional information concerning excavation plans proposed methods and techniques for same, as will enable the Village Engineer to determine whether the proposed land disturbing activity will adversely impact existing trees proposed to be retained on the subject property under the Site Grading and Drainage Plan, or will adversely impact existing trees on adjacent property. **The Village Engineer may require a Tree Survey or Tree Protection Plan as defined in Chapter 29 of the Village Code to be submitted.**
 - (3) **In addition to the Tree Protection and Tree Removal requirements of Chapter 29 of the Village Code,** ~~the~~ Village Engineer may impose reasonable conditions on, or modifications to, the methods or techniques of any proposed excavation, trenching, foundation construction or other land disturbing activities in order to prevent or mitigate such adverse impact on trees, and any such restrictions shall be incorporated into the requirements of the Grading and Drainage Permit. Such conditions may include, but are not limited to, prohibiting excessive over-digging,

requiring shoring, requiring directional boring instead of open trenching, or prescribing the methods of excavation, trenching or directional boring.

Sec. 8-211. Stormwater Management Plan.

- (a) The applicant shall also submit a separate plan labeled Stormwater Management Plan which identifies the methods to be used to control run-off, erosion, sedimentation and drainage expected to occur while the project is ongoing, and before final grading, that may adversely impact adjacent properties or public rights-of-way. The Stormwater Management Plan shall also include:
 - (1) Detail regarding the intended interim on-site storage, placement, fill and disposal of earth materials; and
 - (2) A specific plan to eliminate the adverse impacts from stormwater runoff, including, but not limited to, interim soil stabilization devices and proposed measures for erosion and sedimentation control for all times during construction work and specifically during demolition; between completion of demolition and the commencement of construction work; and continuing through the construction work, until final grading. All such proposed measures shall be based upon the standards and requirements contained in the latest edition of the Illinois Urban Manual, compiled by the IEPA and Department of Agriculture.
- (b) Final grading. To the extent the Village Engineer determines that the proposed final grade, land contour or drainage pattern may, upon project completion, adversely impact adjacent properties or public rights-of-way, the Site Grading and Drainage Plan shall also include:
 - (1) Data regarding the classification, distribution, strength and erodibility of existing soils;
 - (2) Data regarding the nature, distribution, strength and erodibility of earth materials, if any are to be placed on the site;
 - (3) Level of water table;
 - (4) Plans for permanent soil stabilization upon project completion;
 - (5) Design criteria for corrective measures, when necessary; and
 - (6) An alternate proposal for final grading that will eliminate the identified adverse impacts.
- (c) As-graded. Upon final completion of the work, the Village Engineer may require an as-graded plan which would include the following:
 - (1) Approved Site Grading and Drainage Plan;
 - (2) Ground surface elevations;
 - (3) As-graded ground surface elevations;
 - (4) Lot drainage patterns;

- (5) Locations and elevations of all surface and subsurface drainage facilities;
- (6) **Tree Survey as defined in Chapter 29 of the Village Code.** ~~Location, species and size in DBH of each existing tree retained on the subject property and each new tree proposed to be added to the subject property.~~

Sec. 8-212. Grading and Drainage Permit fees.

All Grading and Drainage Permit fees shall be in an amount provided in section 8-106(a).

SECTION 9: Codifier’s Authority. The Village’s codifier is authorized and hereby directed, to adjust section and paragraph numbering as may be necessary to render this ordinance consistent with the numbering of the Village Code.

SECTION 10: This Ordinance shall be in full force and effect on April 1, 2022 and after its passage and approval as required by law.

PASSED by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **8th** day of **March 2022** according to the following roll call vote:

AYES: None.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

Clerk of the Village of Wilmette, IL

APPROVED by the President of the Village of Wilmette, Illinois, this **8th** day of **March 2022**.

President of the Village of Wilmette, IL

ATTEST:

Clerk of the Village of Wilmette, IL

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