

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ Waiver of First Requested
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: March 9, 2016 (COW) (B of T) **Date:** March 17, 2016

TITLE: Ordinance Amending Title 9, Chapter 99 – Street Trees

SUBMITTED BY: Carl Goldsmith, Director of Public Works 

BACKGROUND/POLICY IMPLICATIONS:

Requested for consideration by Trustee Foltyniewicz. This concept was not recommended for approval by the Public Works Committee when they reviewed the matter at their January 8, 2016 meeting.

FISCAL IMPACT/FUNDING SOURCE:

None required.

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



March 9, 2016

TO: Village President and Board of Trustees
THROUGH: Scott Niehaus, Village Manager
FROM: Carl Goldsmith, Director of Public Works *CG*
SUBJECT: Private Tree Planting in the Public Right-of-Way

Background

The Village of Lombard recently amended sections of the Village Code that pertain to the planting of trees within the public right-of-way (ROW). The amendments to the Code were adopted by Ordinance 7193 (attached) at the February 4, 2016 meeting. Prior to the Village Board adoption of the Ordinance, staff and the Public Works and Environmental Concerns Committee undertook a comprehensive evaluation of Title 9, Chapter 99 of the Village Code. Included in the review and consideration of the Code was the concept for a new planting program that permits a property owner to by-pass the Village's normal planting process, as defined by Chapter 99 of the Village Code. The request to develop a modified program came from Trustee Foltyniewicz. The program, as developed by staff and presented to the Committee is outlined below.

In light of the widespread tree removals due to the infestation of emerald ash borers (EAB), the Village has been replacing the roughly 2,900 trees on a schedule based upon the date of removal. It is typical that a replacement tree would be planted 18 months after the removal of the tree occurs. The Village anticipates that all EAB locations receiving a replacement tree will have the tree planted by fall 2017. After this point, replacement trees would resume being planted with the goal of one (1) year after removal (maximum). In an effort to accelerate the tree planting process, staff has looked at a means to accommodate residents that don't want to wait for the Village to plant in accordance with the removal schedule.

Staff looked at programs that create a "priority planting" list in the event that a resident paid for the tree and planting. There are several models utilized by communities in the area that either split the cost or have full-resident participation. Staff conducted a survey of surrounding communities or those known to have such a program. A summary of the findings can be found in the table below. These findings were included in the February 3, 2016 memo to the Village Board and the November 30, 2015 memo to the Public Works and Environmental Concerns Committee.

TREE PLANTING COST SHARE PROGRAMS

Community	Details	Comments
Aurora	\$150 per 2" tree	Limited choices
Elburn	Resident pays 50% of the total cost (tree and planting)	
Hazel Crest	Resident pays 50% of the tree cost	
Homewood	Resident pays 50% of the tree cost	2 tree limit per property
Joliet	Resident pays 50% of the total cost	\$75-\$150 per tree
Naperville	Resident pays 50% of the cost	
Hinsdale	\$260 partial reimbursement	Res pays, need parkway permit
Skokie	\$150 flat fee, replacements free	Low use 10 out of 500 trees/year
Westmont	Plan #1 - 50/50 based on average cost	prepay
	Plan #2- resident planting with approval	No reimbursement
Oak Lawn	Plan #1 - \$100 per tree (2" to 2.5" tree 1/3 cost)	Difficult to manage
	Plan #2 - \$50 per tree (1.25" native 1/3 cost)	
Wilmette	Village \$125, resident rest of cost	Participation numbers seem to be growing; EAB caused spike but almost caught up on those replacements
Schaumburg	\$125-\$150 - 2.5" tree (80-150/year)	Property owners can upgrade to 4" for more \$; Village planting free trees EAB replace
Homewood	resident pays 50% tree cost	Resident must plant tree on own
Glen Ellyn	Plan #1 - \$85 bumps to top of list	Prior program 100% tree cost = top of list, 50% = below 100%; low interest until cost dropped to \$85
	Plan #2 - Res plants own, with approval and permit	

Based upon the results of the survey and qualitative feedback received from communities who either have a "priority planting program" or have a modified program, these programs are rife with issues. Most notably is the equity issue; those who can pay receive a higher level of service than other taxpayers. There are also issues related to the securing of the preferred species for the priority plantings. Some trees are only available for either spring or fall planting, but not both. Warranty issues and ownership/jurisdictional issues were also noted as concerns.

In order to address the request to develop a "priority planting" program, staff proposed the following program for parkway tree planting to the Committee.

- A property owner could pay 100% of the cost of the tree and planting, which would need to be secured through a Village approved source, including an approved planting method and contractor.
- A property owner would not be able to advance the planting schedule based upon payment to the Village of Lombard through the Village's current planting program.

- The tree would have to comply with all relevant sections of the Village Code, including but not limited to §99.04 – Planting Standards and §99.06 – Prohibited Trees.
- A property owner would need to apply for a permit through the Director of Public Works and pay a \$50.00 permit fee. The fee would cover the following:
 - Processing of the application
 - Inspection of the parkway and designation of where the tree could be planted, as well as the species permitted at each location based upon Code requirements.
- The tree must have a warranty equal to the warranty that the Village receives on trees purchased/planted through the Suburban Tree Consortium. *This could create a significant burden on resources in the event of warranty issues.*
- The property owner would be required to sign a waiver/acknowledgement that the tree belongs to the village once it is placed in the ROW and go through the process of the Village accepting the tree as a public improvement.

The Committee unanimously rejected the concept of the new program, as the existing planting program has been deemed to appropriately address the planting needs in the public ROW. The Committee further determined that the new program could present a significant increase in the staff time dedicated to the planting program with very little benefit.

Trustee Foltyniewicz has requested that the Ordinance amending Title 9, Chapter 99 by adding Section 99.25 be placed before the Village Board for consideration. The Committee recommendation, which was approved on February 4, 2016 under Ordinance 7193 did not address the denial of the creation of the program, but recommended the approval of all other changes presented to the Committee. As such, the Village Board approved the Ordinance without consideration of the private tree planting program based upon the Committee recommendation. Trustee Foltyniewicz has provided the Village Board with a memorandum dated February 26, 2016 that identifies his concerns and recommendations. This memo has been attached for your consideration, but was not discussed nor presented to the Public Works and Environmental Concerns Committee. However, based upon the Committees' previous review of this matter, and the fact that the details of the proposed planting program have not been altered since their initial review, staff is recommending that the Village Board of Trustees take action to deny the Ordinance adding Section 99.25 to the Village Code.

Should you have any concerns or questions, please contact me to discuss. I thank you for your time and attention to this matter.

Recommendation

The staff recommends that the Village Board of Trustees deny the adoption of AN ORDINANCE AMENDING TITLE 9, CHAPTER 99 OF THE LOMBARD VILLAGE CODE IN REGARD TO STREET TREES, as presented.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 99 OF
THE LOMBARD VILLAGE CODE IN REGARD TO PARKWAY TREES**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title 9, Chapter 99 of the Lombard Village Code is amended by adding a new Section 99.25 thereto, which shall read in its entirety as follows:

“§ 99.25 – Acquisition and Planting of Parkway Trees by the Adjacent Property Owner.

An abutting property owner, seeking to obtain a tree outside of the process identified in § 99.20 above, may purchase a tree at his/her sole cost and expense for planting within the parkway portion of the Village’s dedicated right-of-way, in accordance with the following terms and conditions:

- (A) The abutting property owner must obtain a permit from the Village for the planting of the tree in the parkway portion of the Village’s dedicated public right-of-way, at a fee of fifty dollars and no/100 dollars at the time of filing of the permit application with the Village’s Public Works Department.
- (B) The tree shall be planted in the parkway portion of the Village’s dedicated right-of-way at such location as determined and approved by the Director of Public Works.
- (C) The tree must comply with § 99.04 and § 99.06 of the Village Code.
- (D) The tree must be purchased from, and planted by a contractor approved by the Director of Public Works as part of the permit application process.

(E) Upon inspection of the tree, by the Public Works Department, after it is planted, provided the tree has been planted correctly, the tree will be conveyed to the Village, by the abutting property owner, by way of the process set forth in § 154.604 (B) of the Village Code.”

SECTION 2: That this Ordinance shall be in full force and effect on from and after its adoption, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2016.

First reading waived by action of the Board of Trustees this ____ day of _____, 2016.

Passed on second reading this ____ day of _____, 2016, pursuant to a roll call vote as follows:

AYES: _____

NAYS _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2016.

Keith Giagnorio
Village President

ATTEST:

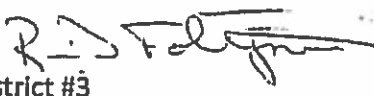
Sharon Kuderna
Village Clerk

Published by me in pamphlet form this ____ day of _____, 2016.

Sharon Kuderna
Village Clerk



MEMO TO : Village President Keith Giagnorio and
Lombard Village Board

FROM : Reid Foltyniewicz 
Village Trustee – District #3

DATE : February 26, 2016

SUBJECT : FOLLOW-UP DISCUSSION REGARDING PERSONAL PARKWAY
TREE PLANTING POLICY (PPTPP)

I am writing as a follow up to my comments at the February 19, Village Board meeting regarding consideration of a Personal Parkway Tree Planting Policy (PPTPP). As I stated at the meeting, I am 100% in support of the recommendations of the Public Works Committee as they pertain to the ordinance that was adopted by the Village Board last week. I applauded them on their efforts and the improvements that the new ordinance will make for our overall tree planting program and tree health. However, the purpose of this memo is to clearly explain and communicate my interest in pursuing a personal tree program. In fact, I am hoping that this memo will “plant a seed” with you so that I can follow up with a personal phone call in the near future.

Around town, one of the most common questions I have been presented with is from homeowners who have lost their parkway trees due to the ash borer beetle wanting to know when their trees will be replaced. According to Public Works over 2,800 residents have lost trees. Of those, roughly 75% have replanting spaces available (2,100). To date, we have replanted trees in 1,132 of the 2,100 available spaces (54%), but still have over 1,000 to go. It will take Public Works approximately 2 years to replace all of the trees at their current pace. In addition, this does not even account for the 250 (average number of trees) that are planted on an annual basis in normal years due to age, accident and inclement weather. While I do acknowledge that many residents are willing to wait up to 24 months for a new tree, there are still some that may be compelled to pay for their own tree for their own reasons.

Starting last spring, I made inquiries to staff about operational and policy issues that would need to be addressed in order to consider a personal tree planting program. One of the biggest concerns was making sure that residents bought quality trees of the right species AND installed them in the appropriate place within the Village ROW. To that end, the policy that was presented to the Public Works Committee in December and debated by them encompassed the following guidelines:

1. They would pay for 100% of the cost of the tree with that cost being directly to a qualified tree contractor as opposed to paying for any kind of right to move in front of someone else on our list.

2. The tree would have to be from our approved species list and would have to meet our minimum size requirements.
3. The Village would inspect the parkway and designate where the tree could be planted in order to avoid conflicts with infrastructure and meet our spacing requirements.
4. The tree would have a warranty equal to the warranty that we get on our own trees.
5. The resident would sign a waiver/acknowledgement that the tree belongs to the Village once it is placed in the ROW.
6. The resident would have to fill out an application form and pay a nominal fee to cover staff time for reviewing the permit and installation.

The reason I point out the above is to address any possible concerns that you may have regarding the implementation of a Personal Tree Planting Policy. If you have any questions on how this would work, please feel free to contact staff including the Village Manager or Public Works Director. I have also attached the staff memo prepared for the Public Works Committee on this policy for your reference.

While I could not attend the Public Works meeting where this was discussed, I have spoken with Trustee Ware regarding the discussion. He indicated that the committee did discuss this at length but ultimately recommended against it because it would not be widely used and due to the fact that the ash trees would be fully replaced in the next 24 months. Trustee Ware did offer me the opportunity to attend a future Public Works Committee meeting to discuss this but offered his honest opinion that they would likely not change their mind. As such, we mutually agreed that the appropriate group for me to discuss this with would be the Village Board.

In summary, I feel that a Personal Tree Planting Policy is worth consideration for the following reasons and I hope that you will keep an open mind as you read this information

1. It has virtually no cost impact for implementation other than creation of the application and out of pocket review/inspection expenses can be recouped with a permit fee.
2. Even though only a few people may take advantage of the program, each tree that is planted at homeowner expense is a bottom line savings to the Village of \$400 to \$500 per tree.
3. It has a life span that exceeds the short term impact of the ash tree infestation and could be applicable in normal years or for the next tree epidemic.
4. It could potentially leverage more homeowner investment by homeowners on private property if they choose to plant trees on their private property at the same time.
5. Giving our community freedom to choose. No obstructions from government.

Cc: Scott Niehaus, Village Manager
Carl Goldsmith, Director of Public Works

RF:cb

**ORDINANCE 7193
PAMPHLET**

ORDINANCE AMENDING TITLE 9, CHAPTER 99 – STREET TREES



**PUBLISHED IN PAMPHLET FORM THIS 19th DAY OF FEBRUARY, 2016, BY ORDER
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE
COUNTY, ILLINOIS.**


**Sharon Kuderna
Village Clerk**

ORDINANCE NO. 7193

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 99 OF
THE LOMBARD VILLAGE CODE IN REGARD TO STREET TREES**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That, effective April 1, 2016, Title 9, Chapter 99 of the Lombard Village Code is amended to read in its entirety as follows:

ARTICLE I. – STREET TREES

§ 99.01 - Intent/disclaimer/definitions.

(A) *Intent.*

It is the intent of this Chapter to promote and protect the public health, safety, and general welfare on public rights-of-way and other village-owned property by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Village of Lombard.

(B) *Disclaimer of liability.*

Nothing contained in this Code shall be deemed to impose any liability upon the village, its officers, agents or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any area abutting his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, alley or public place within the village.

(C) *Definitions.*

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Acceptable tree species—A species of tree suitable for planting along streets and not listed in § 99.06 of this Code.

Arboricultural standards manual—ANSI Z-133.1 Standards: American National Standards Institute safety standards for tree care operations and ANSI A300: American National Standards Institute standard practices for tree care operations.

Arborist—One who is versed in the art and science of arboriculture, including tree surgery, the prevention and cure of tree diseases and the control of insect pests.

Caliper—The diameter of a tree measured at six inches above the finished grade at the base of the tree; used primarily for nursery stock.

Certified arborist—A professional who is certified through the International Society of Arboriculture as possessing the technical competence through experience and related training

to provide for or supervise the maintenance of trees and other woody plants in the residential, commercial and public landscape.

Clear vision triangle—A triangular area on a corner lot measured thirty feet from the intersection of the lot lines bordering the public streets.

Contractor—A person, company or organization employed to supply the necessary skills and services in trimming, removing, cabling and maintenance of trees and shrubs.

County—DuPage County, Illinois.

Easement—That area of private property in relation to which another entity (public utility/governmental body) has the right to use said area for limited purposes such as access, drainage or utility distribution.

Emerald ash borer (EAB) - (*Agrilus planipennis* Fairmaire) A destructive, non-native insect pest that attacks ash trees.

Evergreen—Those trees and shrubs, including broad-leaf and conifer evergreens that maintain their leaves year-round.

Forestry supervisor—A full time Lombard Public Works employee trained and skilled in the theory and practice of municipal arboriculture, and who, if possible, shall hold a college degree or its equivalent in arboriculture, horticulture, urban forestry or another closely related field. This employee shall possess an International Society of Arboriculture's arborist certification and shall maintain the certification during his/her term of employment. This employee shall also possess an Illinois Department of Agriculture Pesticide Applicator's license.

Forestry technician—A full time Lombard Public Works employee performing all aspects of tree care. This employee shall possess an International Society of Arboriculture's arborist certification and shall maintain the certification during his/her term of employment. This employee shall also possess an Illinois Department of Agriculture Pesticide Operator's license.

Hazardous tree—Any tree deemed a public hazard by the village's Forestry Supervisor or Forestry Technician. The hazardous tree may present possible or potential physical damage to person or property or biological danger to adjacent trees through transmittable disease or insect infestation.

Low-growing tree—Those trees that attain a mature height of 25 feet or less.

Maintenance—The pruning, mulching, watering, cabling/bracing, fertilization, and pest management practices necessary for plant/tree/shrub growth.

Medium-growing tree—Those trees that attain a mature height of more than 25 feet but less than 45 feet.

Minimal distance—The closest distance a tree can be planted in relation to a given object.

Mulch—A layer of wood chips or other material placed on the surface of the soil around plants/trees/shrubs to retain moisture, prevent weed growth and protect against damage from lawn mowers or weed whips.

Overhead utility—Any street light, telephone, communications, cable TV, primary or secondary electrical distribution line that is above ground.

Parkway—That part of a street right-of-way not covered by sidewalk, curb, gutter or pavement, lying between the property line and that portion of the street used for vehicular traffic.

Parkway tree—Any tree on the street right-of-way.

Person—Any person, firm, partnership, association, corporation, company, or organization of any kind except for a public utility.

Private tree—Any tree located on private property. **Prohibited tree species**—Those tree species that, because of their undesirable traits, are prohibited from being planted on the village right-of-way (see § 99.06 of this Code).

Property line—The outer edge of a street or highway right-of-way.

Property owner—The person or persons owning a parcel of real property as shown by the DuPage County Recorder of Deeds office.

Public hazard—A tree that is unsafe due to a structural defect and constitutes a threat of injury to persons or damage to property.

Public nuisance—Any tree or shrub which, by reason of its condition, interferes with the use of any public place; is infected with an injurious plant disease; is infested with an injurious insect or other pest; is detrimental to the construction of public improvements; or endangers the life, health, safety or welfare of the public or its property.

Public place—That part of every street or alley between the lot line and curb and from property line to property line, and any other land owned or controlled by the village.

Public tree—Any tree located on property belonging to or under the jurisdiction of the village.

Public utility—Any utility company authorized by Illinois State Statute or village franchise agreement to operate within the village.

Pruning—The removal of specific branches (living or dead) from a tree to improve its structure, its health and/or to maintain safety while allowing for natural growth of the tree.

Right-of-way—A strip of land over which the village has the right by ownership or dedication to construct a public street, sidewalk, or use for public utilities.

Shrub—A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

Spacing requirements—All trees planted along the streets shall conform to the spacing requirements stated in subsection 99.04(C) of this Code.

Street tree—See Parkway tree.

Tall-growing tree—Those trees that attain a mature height of 45 feet or more.

Topping—The severe cutting back of branches of a tree to a stub, bud, or a lateral branch not large enough to assume the terminal role to such a degree so as to remove the normal canopy and disfigure the tree.

Traffic control device—Any traffic signal, regulatory or warning sign erected in accordance with the Manual of Traffic Control Devices.

Trimming—See pruning. *Village*—The geographically area lying within the municipal boundaries of the Village of Lombard, DuPage County, Illinois.

§ 99.02 - Authority of village manager.

- (A) The Village Manager shall have exclusive jurisdiction and supervision over all trees, shrubs, other plants, and grassy areas planted or growing in public places.
- (B) The Village Manager shall have the authority and it shall be his duty to order to plant, trim, spray, preserve, and remove trees, other plants, and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.
- (C) The Village Manager shall have the authority and it shall be his duty to order the trimming, preservation, or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.
- (D) Control of Dutch Elm Disease and Emerald Ash Borer.
 - (1) Any elm tree infected with Dutch Elm Disease or any ash tree infested with the Emerald Ash Borer as determined by the Village of Lombard Forestry Division personnel is a public nuisance and shall be removed within 30 days following notification of such infection or infestation. It is unlawful for any person, being the owner of the property whereon such tree is situated, to possess or keep such a tree after the expiration of the 30-day period following notification of the infection on their property.
 - (2) Elm trees and ash trees or parts thereof in a dead or dying condition that serve as a breeding place for the Elm Bark Beetle (*Hylurgopinus rufipes* or *Scolytus multistriatus*) or the Emerald Ash Borer (*Agrilus planipennis fairmaire*) are a public nuisance and it is unlawful for the person owning such property whereon the same is situated to possess or keep same in such condition more than 30 days following notification of the condition on their property.
 - (3) The Village Manager or his designee to enforce this division may enter upon private property at all reasonable hours for the purpose of inspecting trees thereon, and may cause to be removed such specimens as are required for the purpose of analysis to determine whether or not the same is infected or infested, and to cause to be removed such diseased trees upon failure of the owner to do so after due notification.
 - (4) It is unlawful for any person, firm, or corporation to prevent the Village Manager or his designee entering on private property for purposes of carrying out his duties hereunder or to interfere with such Village Manager or his designee in the lawful performance of his duties.
 - (5) In accordance with 65 ILCS 5/11-20-12, in cases where the property owner fails to remove the elm tree or elmwood or ash tree as required by this Chapter, the Village Manager or his agents may go upon such property to cut down and remove such nuisance, and the owner shall be assessed the cost of removal. In cases where the owner is a nonresident of Lombard, notice shall be served by certified mail, addressed to said owner at his last known address.

- (6) In accordance with 65 ILCS 5/11-20-12, whenever such charges shall remain unpaid for a period of 30 days from the date of the bill herein provided for, the Village Attorney is authorized to:
- (a) Institute suit in the name of the village to enforce collection of such charge; or
 - (b) To file a sworn statement showing such obligation in the office of the Recorder of Deeds of the County; and the filing of such statement shall be deemed notice of the lien for payment of such charges.
- (E) The Village Manager or his designee shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this Chapter.
- (F) The Village Manager or his designee shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

§ 99.03 - Permits required.

- (A) No person or public utility shall spray, move, trim, prune, cut, remove, disturb, alter, or do surgery to public trees or other plants in public places without first filing an application and procuring a permit from the Village Manager.
- (1) The application required herein shall state the name and kind of trees to be sprayed, moved, trimmed, pruned, cut, removed, disturbed, altered, or put under surgery; the kind of treatment to be administered; and such other information as the Village Manager shall find reasonably necessary to fair determination of whether a permit should be issued hereunder.
 - (2) The Village Manager shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.
 - (3) Only contractors that have signed a compliance agreement with the Illinois Department of Agriculture may trim/remove ash trees or remove ash logs/brush from the Village of Lombard.
- (B) No permit shall be required to cultivate, fertilize, or water public trees or shrubs.
- (C) As a condition to any permit to remove any public tree or shrub, the Village Manager may require that the permittee plant one or more trees or shrubs to replace the one removed. Whenever any such tree or shrub has been removed or destroyed pursuant to any such conditional permit, it shall be a misdemeanor for the permittee to fail, refuse, or neglect to plant another tree or shrub or other trees or shrubs of the type, size, and at the location specified in the permit, within the time specified by the Village Manager from the date of issuance of the permit.
- (D) No person or public utility shall plant or set out any tree or plant in a public place without first filing an application and procuring a permit from the Village Manager or his designee.
- (1) The application required herein shall state the number of trees or plants to be planted or set out; the location, grade, and variety of each tree or plant; the method of planting, including the supplying of suitable soil; and such other information as the Village Manager shall find reasonably necessary to a fair determination of whether a permit should be issued hereunder.

- (2) The Village Manager shall issue the permit provided for herein when he finds that the proposed plantings are not listed in § 99.06 of this Code.
- (E) Whenever a permit is issued under this section to a public utility to spray, move, trim, prune, cut, remove, disturb, alter, or do surgery in any public tree or shrub, the Village Manager shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit.

§ 99.04 - Planting standards.

- (A) Trees when planted shall have a minimum diameter of two inches at a distance of six inches above the ground and shall have a continuous single trunk. All trees shall be free from deformity and indication of undesirable growth characteristics.
- (B) Trees when planted shall be free of infectious disease or insect infestation.
- (C) Trees shall be planted on the centerline of the parkways or in line with the existing row of trees. No trees may be planted on parkways less than four feet wide. Planting of trees in situations which meet requirements of this Chapter will be prohibited if such planting will interfere with existing utilities.
- (D) No tree shall be placed so as to cause a traffic hazard or within the clear vision triangle.
- (E) Spacing of trees shall be as follows unless otherwise approved by the Village Manager. Street trees will be planted:
- (1) At a minimum distance of 35 feet between trees for tree categorized as large or medium growing. A minimum distance of 25 feet between trees shall be required for trees categorized as small or narrow growing.
 - (2) A minimum distance of ten feet from driveway aprons.
 - (3) A minimum distance of five feet from water/sewer service lines.
 - (4) A minimum distance of 15 feet from crosswalks.
 - (5) A minimum distance of 15 feet from street light poles and utility poles.
 - (6) A minimum distance of ten feet from fire hydrants.
 - (7) A minimum distance of 15 feet from any traffic control device, not including signs.
- (F) No tree shall be planted where the soil is too poor to ensure the growth of such tree.
- (G) Trees required for new developments shall be planted by the village at the owner's cost of \$350.00 each. However, the owner will be responsible to plant any required trees in a State of Illinois or DuPage County right-of-way.
- (H) Only low growing trees shall be planted under overhead utility lines.
- (I) Only narrow or columnar growing trees shall be planted in the village's downtown area tree pits to minimize interference with roadways, sidewalks and buildings.
- (J) No tree will be allowed to be planted in a parkway less than four feet in width.

§ 99.05 - Injury to trees and shrubs prohibited.

No person shall, without a written permit from the Village Manager or his designee, in the case of a public tree or shrub do, or cause to be done by others, any of the following acts:

- (A) Secure, fasten, or run any rope, wire, sign, unprotected electrical installation, or other device or material to, around or through a tree or shrub;
- (B) Cut (including the root system), break, injure, mutilate, deface, kill, destroy, or permit any fire to burn where it will injure any trees or shrub;
- (C) Permit any toxic chemical, gas, smoke, salt brine, oil, or other injurious substance to seep, drain, or be emptied upon or about any tree or shrub;
- (D) Erect, alter, repair, or raze any building or structure without placing suitable guard around all nearby public trees or shrubs which may be injured by such operations;
- (E) Knowingly permit any unprotected electric service wire to come in prolonged contact with any public tree or shrub;
- (F) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water, and fertilizer.
- (G) Trim or remove any limbs in a manner that does not conform to § 99.10 of this Code.
- (H) Use of any unnatural pruning techniques (stubbing, dehorning or lopping).

§ 99.06 - Prohibited trees.

It is unlawful to plant any of the following trees in the public parkway:

Common Name	Botanical Name
Fir	Abies (All species)
Box Elder	Acer negundo
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus glandulosa
Catalpa	Catalpa (all species)
Hawthorn	Crataegus (varieties with thorns)
Russian or Autumn Olive	Elaeagnus (all species)

Ginkgo	Ginkgo (female varieties)
Walnut	Juglans (all species)
Juniper	Juniperus (all species)
Ash	Fraxinus (all species)
Osage Orange	Maclura pomifera
Mulberry	Morus (all species)
Spruce	Picea (all species)
Pine	Pinus (all species)
Sycamore	Platanus occidentalis
Poplar	Populus (all species)
Black Cherry	Prunus serotina
Douglas Fir	Pseudotsuga menziesii
Bradford Pear	Pyrus calleryana 'Bradford'
Buckthorn	Rhamnus (all species)
Sumac	Rhus (all species)
Black Locust	Roninia Pseudoacacia
Willow	Salix (all species)
Yew	Taxus (all species)
Arborvitae	Thuja (all species)
Hemlock	Tsuga (all species)

Siberian Elm	Ulmus pumila
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ARTICLE II. - TRIMMING STANDARDS

§ 99.10 - Standards.

All street trees shall be trimmed in accordance with the Arbicultural Standards manual.

The trimming of street trees will only be accomplished by Village of Lombard employees, those licensed tree care companies contracted by the village to perform such work, or a public utility operating under a permit pursuant to § 99.03 of this Code.

Wherever possible, all street trees will be pruned as follows:

- (A) Remove all lower limbs to a minimum height of 14 feet on the roadway and driveway sides of the tree, 8 feet over the sidewalk and parkway and balance the overall tree structure.
- (B) Remove all deadwood with a diameter of one half inch or greater.
- (C) Remove all dying or diseased limbs.
- (D) Remove limbs that are crossing or rubbing.
- (E) Remove all broken and/or weakly attached limbs.
- (F) Remove all root suckers.
- (G) Remove all water sprouts up to the first major limb.
- (H) Remove all visible girdling roots.
- (I) All final cuts shall be collar cuts made sufficiently close to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub, so that closure can readily begin under normal conditions.
- (J) Clean cuts shall be made at all times without leaving any stubs.
- (K) All limbs to be removed shall be cut in such a manner so as to prevent any ripping or tearing of the wood or bark on the parent or remaining stem.
- (L) All limbs to be removed shall be brought to the ground in such a manner as to prevent any damage to real or personal property, publicly or privately owned.
- (M) Proper tools for pruning shall be used for each cut, with the blades of each tool, including hand pruners, pole saws, hand saws, and chain saws being placed on each branch to obtain the proper pruning cut.
- (N) Pruning shall be done in a way that will not to cut, rip, or harm adjacent bark areas.
- (O) No tree topping shall be allowed.

- (P) No person working in trees shall use shoes with spikes, or any other footwear which will, in the opinion of the Village Forester, injure the tree being pruned.
- (Q) At no time shall any person working in trees for pruning purposes, wear spurs or climbing irons.
- (R) At least one individual on the job site must have a valid and current arborist certification from the International Society of Arboriculture.
- (S) No American elm (*Ulmus Americana*) shall be trimmed between April 15th and October 15th of each year unless to remove an immediate hazard.

§ 99.11 - Application.

This Chapter shall apply to the following classes of persons and corporations:

- (A) Village employees, and parties or contractors employed by the village for such purpose.
- (B) Subdividers, particularly when they are performing under the requirements of other local ordinances.
- (C) Condominiums.
- (D) All private persons, whether acting voluntarily and independently of village direction or request, or not.
- (E) Public Utilities

§ 99.12 - Forfeitures.

In the event any of the persons enumerated in § 99.11 or corporations or legal entities have posted a performance or subdivision completion bond, as may be required by other local ordinance, and have violated this subchapter, the Director of Public Works may, upon the appropriate resolution of the Board of Trustees, retain such monies as may be necessary to correct and repair any violations by such person, corporation, or legal entity, until such violation has been corrected and repaired to the satisfaction of the said Director of Public Works. Such correction and repair may include, but shall not be limited to, replacement of trees improperly pruned or trimmed, in accordance with the requirements of this subchapter.

ARTICLE III. - TREE PLANTING PROGRAM

§ 99.20 - Created.

The Board of Trustees hereby creates and sets up an annual tree planting program for new trees and tree replacement. The trees are to be placed in the village right-of-way at village-determined locations with no fees charged to the adjacent property owner.

§ 99.21 - Purchase of trees by village.

The village shall on an annual or bi-annual basis contract to purchase trees to be placed in village right-of-way in front or on the side of homes, businesses, and the like within the corporate limits of the village.

§ 99.22 - Property owner participation.

Village property owners may participate in the program on a first come, first serve basis, and request the placement of a tree in the village right-of-way in front of their property. The village shall determine the location and placement of the trees.

§ 99.23 - Fees.

Village property owners participating in the program shall be charged a flat fee of \$350.00 for each tree requested. Multiple requests shall be granted only after all single requests have been supplied. Said fee must be paid upon application for a tree.

§ 99.24 - Removal of unauthorized plantings.

The village may remove any unauthorized plantings within any public place without compensation to the owner.

ARTICLE IV. - FRONT YARD TREE PROGRAM

§ 99.30 - Program definition.

In certain areas, chosen by the village, where the right-of-way is too narrow to sustain a tree, but where the village determines a tree is needed for village beautification purposes, the village, if the property owner executes a participation agreement provided by the village, shall, without cost to the property owner, plant a tree in the front yard of private property, maintain the tree for one year after planting and after one year from the date of planting turn the title over to the property owner so that continued care and maintenance of the tree shall be the responsibility of the property owner.

§ 99.40 - Tree removal.

Street trees shall be removed when removal is considered necessary by the village's Forestry Supervisor for reasons of tree health and public safety. Prior to such removal, notice will be mailed to the resident of the abutting private property stating the reason for the removal. In the event of an emergency, village staff has the authority to remove any street tree without notice when considered necessary for public safety. In regard to any such street tree removal:

- (1) All stumps will be ground to a depth of at least 12 inches below existing grade. Stump grindings will be removed, replaced with topsoil and restored with seed.
- (2) Any street tree that is removed will be replaced in the next available planting season providing there is sufficient spacing, available trees and sufficient funding. More than one replacement tree possibly being planted provided there is sufficient spacing to do so.

§ 99.99 - Penalty.

Any person, firm, corporation or public utility who is found to be in violation of any provision of this Chapter 99 shall be fined not less than \$50.00, nor more than \$750.00, with each day any such violation exists constituting a separate and distinct violation, and each tree impacted in violation of this Chapter 99 resulting in a separate and distinct violation.



February 3, 2016

TO: Village President and Board of Trustees
THROUGH: Scott Niehaus, Village Manager
FROM: Carl Goldsmith, Director of Public Works
SUBJECT: Tree Planting in the Public Right-of-Way

Background

Staff recently undertook a comprehensive evaluation of Title 9, Chapter 99 of the Village Code, which governs trees planted and maintained within the public right-of-way (ROW). The review was conducted to determine what changes were necessary to the existing provisions to ensure a healthy inventory of parkway trees, as well as to review a proposed change to the planting program. The findings of the Code review and the concept for a new planting program were presented to the Public Works & Environmental Concerns Committee at their January 12, 2016 meeting. A redlined copy of the proposed Code has been provided for the Village Board's review and consideration. The proposed planting program is highlighted for ease of identification. A summary of the proposed amendments to the Code can be found below:

- §99.04 (E) (1) has been revised to more accurately articulate the spacing requirements within the ROW for large/medium trees versus the spacing requirements for small/narrow growing trees.
- §99.04 (E) (5) eliminates the spacing requirement for distance to a sidewalk. Due to the average width of a parkway in Lombard, the enforcement of this provision would generally prohibit the planting of a tree within the parkway.
- §99.04 (E) (8) eliminates the spacing requirement for distance to catch basin. This spacing requirement has been determined to be unnecessary given other existing spacing requirements.
- §99.04 (I) revises the requirements for trees planted in the downtown tree vaults to better address conflicts with the roadway, sidewalk and buildings.
- §99.05 (H) has been eliminated from the Code as section 99.05 (I), as well as section 99.10 address the trimming standards, which address topping.

- §99.06 includes a table for prohibited trees within the ROW. This section has been updated to better reflect the prohibited species for parkways based upon current forestry practices and standards.
- §99.10 (A) has been modified to address the current pruning standards in place for the Village, which are based upon ANSI A300 Standards.
- §99.40 has been modified to articulate the Village’s restoration process, which now reflects the recent modification from sod to a seed mix.

In addition to these changes, which were unanimously supported by the Committee, staff presented language in Section §99.25 that would create a new cost sharing program for tree plantings in the public ROW. The request to develop a modified program came from Trustee Foltyniewicz. The program, as developed by staff and presented to the Committee is outlined below.

In light of the widespread tree removals due to the infestation of emerald ash borers (EAB), the Village has been replacing the roughly 2,900 trees on a schedule based upon the date of removal. It is typical that a replacement tree would be planted 18 months after the removal of the tree occurs. The Village anticipates that all EAB locations receiving a replacement tree will have the tree planted by fall 2017. After this point, replacement trees would resume being planted with the goal of one (1) year after removal (maximum). In an effort to accelerate the tree planting process, staff has looked at a means to accommodate residents that don’t want to wait for the Village to plant in accordance with the removal schedule.

Staff initially looked at programs that would create a priority planting list in the event that a resident paid for the tree and planting. There are several models utilized by communities in the area that either split the cost or have full-resident participation. Staff conducted a survey of surrounding communities or those known to have such a program. A summary of the findings can be found in the table below.

TREE PLANTING COST SHARE PROGRAMS

Community	Details	Comments
Aurora	\$150 per 2” tree	Limited choices
Elburn	Resident pays 50% of the total cost (tree and planting)	
Hazel Crest	Resident pays 50% of the tree cost	
Homewood	Resident pays 50% of the tree cost	2 tree limit per property
Joliet	Resident pays 50% of the total cost	\$75-\$150 per tree
Naperville	Resident pays 50% of the cost	
Hinsdale	\$260 partial reimbursement	Res pays, need parkway permit
Skokie	\$150 flat fee, replacements free	Low use 10 out of 500 trees/year
Westmont	Plan #1 - 50/50 based on average cost	prepay

	Plan #2- resident planting with approval	No reimbursement
Oak Lawn	Plan #1 - \$100 per tree (2" to 2.5" tree 1/3 cost)	Difficult to manage
	Plan #2 - \$50 per tree (1.25" native 1/3 cost)	
Wilmette	Village \$125, resident rest of cost	Participation numbers seem to be growing; EAB caused spike but almost caught up on those replacements
Schaumburg	\$125-\$150 - 2.5" tree (80-150/year)	Property owners can upgrade to 4" for more \$; Village planting free trees EAB replace
Homewood	resident pays 50% tree cost	Resident must plant tree on own
Glen Ellyn	Plan #1 - \$85 bumps to top of list	Prior program 100% tree cost = top of list, 50% = below 100%; low interest until cost dropped to \$85
	Plan #2 - Res plants own, with approval and permit	

Based upon the results of the survey and qualitative feedback received from many communities who either have a “priority planting program” or have a modified program, these programs are rife with issues. Most notably is the equity issue; those who can pay receive a level of service not afforded to other taxpayers. There are also issues related to the securing of the preferred species for the priority plantings. Some trees are only available for either spring or fall planting, but not both.

Additionally, the Village can only receive a set number of trees based upon the 5 year advance order with the Suburban Tree Consortium. Through the Consortium, trees are received from specific qualified nurseries and planted under a joint contract. Warranties are provided for both the tree and the planting. The use of the Consortium provides high quality products at a very reasonable rate and minimizes the amount of staff time dedicated to the planting process.

In order to address the request to develop a program that would allow a property owner to bypass the Village’s normal planting process, as defined by Village Code, staff has developed a proposed program for parkway tree planting. Under the proposed changes to the planting process:

- A property owner could pay 100% of the cost of the tree and planting, which would need to be secured through a Village approved source.
- A property owner would not be able to advance the planting schedule based upon payment to the Village of Lombard through the Village’s current planting program.

- The tree would have to comply with all relevant sections of the Village Code, including but not limited to §99.04 – Planting Standards and §99.06 – Prohibited Trees.
- A property owner would need to apply for a permit through the Director of Public Works and pay a \$50.00 permit fee. The fee would cover the following:
 - Processing of the application
 - Inspection of the parkway and designation of where the tree could be planted.
- The tree would have a warranty equal to the warranty that we get on trees purchased/planted through the Suburban Tree Consortium (1 year).
- The resident would sign a waiver/acknowledgement that the tree belongs to the village once it is placed in the ROW.

The Committee unanimously rejected the concept of the new program, as the existing planting program has been deemed to be appropriately addressing the planting needs in the public ROWs in Lombard. The Committee further determined that the new program could present a significant increase in the staff time dedicated to the planting program with very little benefit.

Should you have any concerns or questions, please contact me to discuss. I thank you for your time and attention to this matter.

Recommendation

The Public Works and Environmental Committee recommends that the Village Board of Trustees adopt AN ORDINANCE AMENDING TITLE 9, CHAPTER 99 OF THE LOMBARD VILLAGE CODE IN REGARD TO STREET TREES, as presented.



November 30, 2015

TO: Public Works Committee
FROM: Carl Goldsmith, Director of Public Works
SUBJECT: Tree Planting in the Public Right-of-Way

Staff has been requested to look into modifications to the current tree planting process and Village Code provisions which govern the plantings in the R-O-W. Staff has reviewed the current Code requirements that are contained in Chapter 99 of the Village Code. A copy of the Code sections has been attached for the Committees review and consideration. A summary of the salient points of the Code can be found below:

- §99.02 (A) provides that the Village Manager has exclusive jurisdiction and supervision over all trees...planted or growing in public spaces.
- §99.03 (D) provides that no person or public utility shall plant or set out a tree or plant in a public place (R-O-W) without obtaining a permit from the Village. All plantings must be done in accordance with **§99.04 Planting Standards** and **§99.06 Prohibited Trees**.
- §99.04 Identifies the planting standards (i.e. spacing, species, diameter and location) for trees planted in the R-O-W. These standards are in place to avoid conflicts with utilities and to minimize impact on the roadway.
- §99.06 identifies the trees that are prohibited to be planted within the R-O-W. This list contains trees whose undesirable traits make them unsuitable for parkway plantings.
- §99.20 established the procedures for planting of trees within the R-O-W. This section of the Code (§99.23) established a fee of \$300.00 per tree if a resident wanted to have a tree planted in the parkway adjacent to their property.

In light of the widespread tree removals due to the infestation of emerald ash borers (EAB), the Village has been replacing the roughly 2,900 trees on a schedule based upon the date of removal. It is typical that a replacement tree would be planted 18 months after the removal of the tree occurs. The Village anticipates that all EAB locations receiving a replacement tree will have the tree planted by fall 2017. After this point, replacement trees would resume being planted with the goal of one (1) year after removal (maximum). In an effort to accelerate the tree planting process, staff has looked at a means to accommodate residents that don't want to wait for the Village to plant in accordance with the removal schedule.

Staff initially looked at programs that would create a priority planting list in the event that a resident paid for the tree and planting. There are several models utilized by communities in the area that either split the cost or have full-resident participation. Staff conducted a survey of surrounding communities or those known to have such a program. A summary of the findings can be found in the table below.

TREE PLANTING COST SHARE PROGRAMS

Community	Details	Comments
Aurora	\$150 per 2" tree	Limited choices
Elburn	Resident pays 50% of the total cost (tree and planting)	
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Based upon the results of the survey and qualitative feedback received from many communities who either have a "priority planting program" or have a modified program, these programs are

rife with issues. Most notably is the equity issue; those who can pay receive a level of service not afforded to other taxpayers. There are also issues related to the securing of the preferred species for the priority plantings. Some trees are only available for either spring or fall planting, but not both.

Additionally, the Village can only receive a set number of trees based upon the 5 year advance order with the Suburban Tree Consortium. Through the Consortium, trees are received from specific qualified nurseries and planted under a joint contract. Warranties are provided for both the tree and the planting. The use of the Consortium provides high quality products at a very reasonable rate and minimizes the amount of staff time dedicated to the planting process.

In order to address the request to develop a program that would allow a property owner to bypass the Village's normal planting process, as defined by Village Code, staff has developed a secondary process for parkway tree planting. The basic provisions are provided below for consideration by the Committee. In the event that the Committee wishes to advance this process, staff will modify the existing Code to allow for the process. This action would be taken prior to the spring 2016 planting.

Under the proposed changes to the planting process;

- a property owner could pay 100% of the cost of the tree and planting, which would need to be secured through a Village approved source.
- a property owner would not be able to advance the planting schedule based upon payment to the Village of Lombard through the Village's base program.
- the tree would have to comply with all relevant sections of the Village Code, including but not limited to §99.04 – Planting Standards and §99.06 – Prohibited Trees.
- a property owner would need to apply for a permit through the Director of Public Works and pay a \$50.00 permit fee. The fee would cover the following:
 - Processing of application
 - Inspection of the parkway and designation of where the tree could be planted.
- the tree would have a warranty equal to the warranty that we get on trees purchased/planted through the Suburban Tree Consortium (1 year).
- the resident would sign a waiver/acknowledgement that the tree belongs to the village once it is placed in the ROW.

At this time, staff does not believe that there would be sufficient interest to warrant an expansion to the current planting program; however, staff has prepared the attached amendment to the Village Code that would create an alternate planting program that would allow property owners to by-pass the existing program. There will be a greater level of coordination and inspection to manage this program.

In addition to the creation of this program, the staff is recommending the following changes to Chapter 99 of the Village Code.

- §99.04 (E)(1) has been revised to more accurately articulate the spacing requirements for large/medium trees versus the requirements for small/narrow growing trees.
- §99.04 (E)(8) eliminates the spacing requirement for distance to catch basin.

- §99.04 (I) revises the requirements for trees planted in the downtown tree pits to better address conflicts with the roadway, sidewalk and buildings.
- §99.06 the table for prohibited trees has been updated to better reflect the prohibited species for parkways.
- §99.10 (A) has been modified to address the current pruning standards in place for the Village, which are based upon ANSI A300 Standards.
- §99.25 provides for the cost sharing program for parkway trees.
- §99.40 has been modified to better define the tree removal and restoration process, which now reflects the recent modification to a seed mix versus sod.

Please feel free to contact me with any questions.

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