

Chapter 95: Trees and Shrubs

CHAPTER 95: TREES AND SHRUBS

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GENERAL PROVISIONS

§ 95.01 PLANTING AND REMOVAL PERMITS REQUIRED.

(A) *Planting permit.* No person shall plant any tree or shrub in any street, parkway or other public place without first having secured a permit therefor. Application for such permit shall be made to the Village Office, and shall be referred by him to the Board of Trustees for approval.

(‘77 Code, § 5.15(a))

(B) *Removal permit.* No person shall remove or cut down any tree or shrub in any street, parkway or other public place without having first secured a permit therefor. Application for such

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permit shall be made to the Village Office, and shall be referred by him to the Board of Trustees for approval.

(‘77 Code, § 5.15(b)) Penalty, see § 10.99

§ 95.02 INJURING TREES OR SHRUBS PROHIBITED.

No person shall injure any tree or shrub planted in any street, parkway or public place.

(‘77 Code, § 5.15(c)) Penalty, see § 10.99

§ 95.03 ADVERTISEMENTS ON TREES OR SHRUBS PROHIBITED.

No person shall attach any sign, advertisement or notice to any tree or shrub in any street, parkway or public place.

(‘77 Code, § 5.15(d)) Penalty, see § 10.99

Cross-reference:

Advertising on streets, see § 94.08

§ 95.04 TRIMMING OF DANGEROUS TREES.

Any tree or shrub which overhangs any sidewalk, street or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises on which such tree or shrub grows so that the obstruction shall cease. Any limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which the tree grows or stands.

(‘77 Code, § 5.15(e)) Penalty, see § 10.99

§ 95.05 ATTACHMENT OF WIRES OR ROPES TO TREES; PERMISSION REQUIRED; SPECIFICATIONS.

No person shall attach any wire or rope to any tree without the permission of the Board of Trustees. Any person granted the right to maintain poles and wires in the streets, alleys or other public places in the Village shall in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Village, to insure that injury shall not be done to the poles, wires, shrubs and trees by contact with wires.

(‘77 Code, § 5.15(f)) Penalty, see § 10.99

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TREE PRESERVATION

§ 95.15 INTENT AND PURPOSE.

(A) The purpose of this subchapter is to conserve and protect the land, vegetation and other natural resources of Deer Park, while allowing for reasonable improvement of the land and to take necessary measures to preserve and protect trees and other vegetation during all phases of construction of improvements or regrading of land. This subchapter is intended to have the effect of strongly encouraging the configuration of buildings and other site improvements which retains the natural features of the site including its trees, without rendering the site unbuildable. Tree removal for convenience or to accommodate non-essential functions shall not be permitted except as specifically set forth herein.

(B) The preservation of existing trees in the Village is intended to accomplish, where possible, the following objectives:

- (1) To preserve trees as an important public resource enhancing the quality of life and general welfare of the village and enhancing its unique character and physical, historical, and aesthetic environment;
- (2) To preserve the essential character of those areas throughout the community which are heavily wooded and in a natural state;
- (3) To enhance and preserve the air quality of the Village through the filtering effect of trees on air pollutants;
- (4) To reduce noise within the Village through the baffle and barrier effect of trees on the spread of noise;
- (5) To reduce topsoil erosion through the soil retention effect of the tree roots;
- (6) To preserve and enhance nesting areas for birds and other wildlife which assist in the control of insects;
- (7) To reduce storm water runoff and the costs associated with runoff through the water-retaining characteristics of existing woodlands and replenish ground water supplies; and
- (8) To protect and increase property values.

§ 95.16 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply:

CALIPER. A measurement of a tree equal to the diameter of its trunk measured six inches above natural grade for trees having calipers less than or equal to four inches in diameter; and measured 12 inches above grade for tree calipers greater than four inches in diameter. For purposes

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of this subchapter, caliper shall be the measure of all new trees planted pursuant to the provisions hereof.

CRITICAL ROOT ZONE. The area inscribed by an imaginary line on the ground beneath a tree having its center point at the center of the trunk of the tree and having a radius equal to one foot for every inch of DBH and shall extend five feet below surface ground level.

DEVELOPMENT. The performance of any building or mining operation, the making of any material change in the use or size of any structure or land, demolition of a structure and removal of trees, the division of land into two or more parcels, and the creation or termination of rights or access or riparian rights.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree measured at four and one-half feet above the existing grade at the base of the tree. ***DBH*** shall be the measure of all pre-existing trees on a site for purposes of this subchapter.

FREE-STANDING TREE. An existing tree with a DBH of six inches or greater that is located by itself outside of any woodlands on a site.

REMOVE or ***REMOVAL.*** The causing or accomplishing of the actual physical removal of a tree, or the effective removal through severe pruning, damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a tree.

SITE WORK. The making of any material change in the use or appearance of any structure or land, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights, as well as demolition of a structure or removal of trees and other vegetation. Also, any clearing, excavating, grading, trenching, filing or similar land-disturbing activities.

SWALE. A topographical indentation which channels periodic water runoff.

TREE PRESERVATION AREA. That area of a lot or parcel of land within which all trees and shrubs shall be protected.

TREE PRESERVATION PLAN. A written plan having text and/or graphic illustrations indicating the methods which are to be used to preserve existing trees during construction.

TREE PRESERVATION SUPERVISOR. A member of the petitioner's development team who is a professional landscape architect or arborist with training in tree preservation techniques. This person shall take responsibility for ensuring the protection of existing trees designated for preservation during construction.

TREE REMOVAL PERMIT. The permit required by the tree preservation regulations to be issued in order to remove any tree within the corporate limits of the Village.

TREE SPADE TRUCK. A truck with a cone-shaped appendage specifically designed for digging established trees for the purpose of transplanting.

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TREE SURVEY. A written plan having text and/or graphics indicating the location, size, species and condition of all existing free-standing trees with a caliper of six inches or greater and the boundary line, variety of species, range of sizes and condition of trees within a wooded area.

WOODLAND. A group of three or more trees in close proximity to one another in which at least one of the trees has a DBH of a minimum six inches.

VEHICULAR USE AREA. All areas used for the display or parking of four or more vehicles, including boats and heavy construction equipment, whether such vehicles, boats or equipment are self-propelled or not (i.e., trailers), and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to driveways, parking lot aisles, drive-through window lanes, stacking areas for car washes and gas stations.

§ 95.17 APPLICABILITY.

(A) The Tree Preservation regulations of this subchapter shall apply to all lands in the Village.

(B) No land shall be cleared of woodlands nor shall free-standing trees with a DBH of six inches or greater be cleared and/or removed without a Tree Removal Permit issued by the Building Inspector unless exempt from regulation under § 95.18.

(C) Clearance and removal of trees shall mean, but not be limited to, damage inflicted to the root system by machinery, storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; paving with concrete, asphalt or other impervious materials within such proximity as to be harmful to the tree.

(D) No Site Work shall occur without a Tree Survey and, where necessary, a Tree Removal Permit.

(E) No building permit, grading plan, or soil removal or filling permit shall be issued for the construction, alteration or addition to a building, or the grading or alteration of the land surface without conformance to this subchapter.

(F) No Tree Removal Permit shall be issued for any parcel of land or development which requires an approved site plan under § 158.080 until a site plan, including a Tree Survey and Preservation Plan, is submitted to and approved by the Plan Commission and Village Board of Trustees.

(G) No Tree Removal Permit shall be issued for any parcel of land or development which requires a Subdivision Plan approval, until a Final Subdivision Plan is approved by the Plan Commission and Village Board of Trustees.

Penalty, see § 95.99

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§ 95.18 EXEMPTIONS.

The following activities and properties are exempt from the Tree Preservation regulations in this subchapter and no Tree Removal Permit is required:

(A) Removal of a tree with a DBH of six inches or less by an individual homeowner on a privately owned lot, except trees and other vegetation protected in landscape preservation or conservation easements, or other deed restricted tree preservation areas.

(B) The removal of a dead, diseased or critically damaged tree.

(C) The removal of trees in time of an emergency or when they pose potential danger to life or property. See also § 95.23.

(D) The removal of trees necessary for the construction, operation and maintenance of drainage facilities, sanitary and storm sewers approved by the Village.

(E) The removal of trees for construction of public roadways and associated improvements approved by the Village.

(F) The removal of trees required for the installation, maintenance and repair of underground and overhead utilities.

§ 95.19 VEGETATION REQUIRING PRESERVATION.

(A) Existing trees shall be preserved as follows:

(1) *Free-Standing Trees.* Any Free-Standing Tree having a DBH of six inches or greater shall be preserved to the greatest extent possible. Additionally, a smaller tree can be considered a specimen meriting preservation if it is a rare or unusual species or of exceptional quality. If existing trees cannot be preserved they shall be transplanted where feasible. Trees over seven inches in caliper should not generally be transplanted.

(2) *Woodlands.*

(a) A Woodland shall be measured by drawing a line around the Critical Root Zone of all trees on the outer edge of the woodland and measuring the area contained therein. Where more than one Woodland exists on a site the area as defined above shall be added together to obtain the total from which to calculate the percentage of Woodlands required to be retained.

(b) To the extent sufficient Woodlands exist on a site, the existing Woodlands shall be protected as a conservation area according to the following sliding scale criteria for minimum retention of total Woodlands: 10% in the commercial districts; 20% in office and research districts (O & R); 25% in medium-low density residential areas (R-1); and 50% on large-lot residential lots (R-2 and R-3). If the amount of Woodlands on a site is less than the percentage stated above,

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then all Woodlands must be preserved on the site to the extent such preservation is not otherwise exempt from this provision pursuant to § 95.18.

(B) *Priority areas.* Wooded 100-year floodplains, wooded wetlands, wooded stream corridors, and steep wooded slopes shall be considered “priority areas” to help prevent erosion and protect wildlife. Preservation of priority areas shall not be counted toward meeting the requirements of division (A)(2) above.

(C) *Credit for preserved trees.* All preserved trees and vegetation, and transplanted trees shall be credited toward meeting the landscaping and screening requirements of § 158.053 for the applicable portion of a site.

(D) *Procedures and submittal requirements.*

(1) *Plan approval procedures.*

(a) For any parcel of land that requires a site plan or subdivision plat approval and that contains Free-Standing Trees which have a DBH greater than or equal to six inches or woodlands, a Tree Survey and Tree Preservation Plan must be submitted at the time of application for site development plan or preliminary subdivision plat approval. The Tree Preservation Plan shall be reviewed by the Plan Commission and approved by the Village Board as part of the site development plan or preliminary subdivision plan.

(b) Prior to issuance of a building permit for development activities covered by this subchapter, a preapplication advisory conference, as provided for in § 158.081, may be called by the Village to review procedures for protection and management of all protected landscape elements identified on the Tree Preservation Plan and to designate one or more persons on the petitioners development team as “Tree Preservation Supervisor(s).”

(c) Tree Surveys and Tree Preservation plans shall be prepared by qualified professionals, including landscape architects and arborists. The development applicant must designate a Tree Preservation Supervisor who must have training in landscape preservation techniques and take responsibility for ensuring the protection of existing trees during construction.

(2) *Tree Survey.* The Tree Survey shall include the following:

(a) A scale at a minimum of 1"= 50' and a north arrow.

(b) All existing, buildings, structures and paved areas.

(c) The location, species (common and botanical), size and condition of each Free-Standing Tree of six inches or greater DBH.

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(d) Delineate stands of natural woodlands by a circumferential line around all stands of trees with similar characteristics, such as type or species, defined as areas which include the outer perimeter of the Critical Root Zone of the individual trees. A notation shall be included which indicates the range of height and DBH of the trees within the area, the predominate species within the area, and the general health of the trees.

(e) Trees noteworthy due to size, age, historic, cultural or aesthetic value.

(f) Name and address of the preparer and the date of preparation.

(3) *Tree Preservation Plan.* The Tree Preservation Plan shall include the following information:

(a) A scale at a minimum of 1"= 50' and a north arrow.

(b) The footprint of any existing and proposed buildings, structures, paving and any other facilities.

(c) The location, species (common and botanical), size and condition of each tree to be preserved, transplanted or removed for all trees with a DBH of six inches or greater.

(d) Delineate stands of natural woodlands by a circumferential line around all stands of trees with similar characteristics, such as type or species, defined as areas which include the outer perimeter of the Critical Root Zone of the individual trees. A notation shall be included which indicates the range of height and DBH of the trees within the areas, the predominant species within the area, and the general health of the trees.

(e) The location and type of protective tree fencing (orange snow fence or red picket construction fence being approved types).

(f) Proposed grading and site changes around trees to be preserved and any proposed retaining walls.

(g) A statement concerning where and how deliveries for construction purposes are to be made to the site.

(h) Name and address of preparer and date of preparation.

(i) A panoramic photographic survey of all Free-Standing Trees outside of a Woodland with a minimum six inch DBH and the perimeter of all Woodlands to be preserved, with corresponding labels on the Tree Preservation Plan indicating where each photo/panoramic elevation was taken.

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(j) A utility trenching plan containing the following information: all storm drains, sewers, easements, area drains, gas lines, electrical service, cable TV and water mains.

(k) Additionally, the plan must show all lateral lines serving structures. The plans should be developed to avoid going into the Critical Root Zone of any tree on its path from the street to a building. Where it is not possible to avoid some encroachment, the design must minimize the extent of encroachment.

§ 95.20 ISSUANCE OF TREE REMOVAL PERMITS.

(A) Unless otherwise specifically authorized in this subchapter, it shall be unlawful for any person without a Tree Removal Permit from the Village to remove, injure, destroy, or undertake any procedure the result of which is to cause the death or substantial destruction of any tree having a diameter of six inches DBH or larger, or within one year remove trees from a site having an aggregate diameter of 12 inches DBH or larger. Tree Removal Permits authorizing the removal of such trees may be issued by the Building Inspector for, but not necessarily limited to, the criteria outlined below. Any petition for a Tree Removal Permit associated with a site plan approval or subdivision approval shall require review by the Plan Commission and approval by the Village Board of Trustees.

(B) *Criteria for tree removal.*

- (1) The tree is diseased, dying or dead;
- (2) The tree is damaged or injured to the extent that it is likely to die or become diseased, or that it constitutes a hazard to person or property;
- (3) Removal of the tree is consistent with good forestry practices;
- (4) Removal of the tree will enhance the health of remaining trees within the immediate vicinity;
- (5) Removal of the tree will permit a lot or property to be buildable, if nonremoval causes the lot or property to be unbuildable.
- (6) Removal of the tree will avoid or alleviate a hardship of another nature on the lot or residence located on the lot as approved by the Village Board of Trustees.

(C) *Tree removal permit when a building permit is sought.* In the event a Tree Removal Permit is sought in connection with construction requiring a building permit, the application shall be accompanied by:

- (1) A Tree Removal Permit fee, to be established from time to time by the Village Board of Trustees;

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(2) A Tree Survey of the lot prepared in conformance with the requirements of § 95.19(D)(2); and

(3) A Tree Preservation Plan in conformance with the requirements of § 95.19(D)(3).

(D) *Tree removal permit when no building permit is sought.* In the event a Tree Removal Permit is sought in connection with work for which no building permit is required, there shall be no charge for such permit. The application for such Tree Removal Permit shall contain:

(1) Name and address of applicant;

(2) Commonly known address of Lot or property where tree or trees sought to be removed are located;

(3) A written statement indicating the reason for removal of the tree or trees and supporting documentation therefor;

(4) A general description and site plan showing the tree or trees to be removed, including species and size; and

(5) Name and address of contractor or other person who is proposed as having responsibility for tree removal.

(E) *Fees.* A fee shall be paid for permit processing, and site inspections by Village officials and/or consultants, and appeals based on the size of the site. Government agencies and licensed public utility companies shall be exempt from paying such fees. Fees shall be waived in the case of a permit to remove a tree deemed to be damaged or diseased.

Penalty, see § 95.99

§ 95.21 TREE PROTECTION DURING CONSTRUCTION.

During construction, all reasonable steps necessary to prevent the damaging or destruction of trees (other than those specified to be removed) shall be taken, including, but not limited to the following:

(A) No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted outside the building activity area or within the tree preservation area and no excess soil, additional fill, liquids, or construction debris shall be placed within the critical root zone of any tree that is required to be preserved; nor shall storage of hazardous chemicals occur within 100 feet of a protected tree.

(B) Unless otherwise authorized by a Tree Removal Permit, no soil is to be removed from within the Critical Root Zone of any tree designated for preservation;

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(C) Within a designated preserved woodland, a property owner or builder may clear underbrush inside the woodland boundary line for the purpose of removing trees and other undesirable vegetation as noted in § 95.20, consistent with good forestry practices, subject to the Critical Root Zone Protection requirements in this subchapter.

(D) Prior to commencing any grading or construction activity on a site, the developer shall tag the trees that are intended for removal.

(E) The following guidelines shall apply to site grading:

(1) Building elevations and street elevations shall minimize the change in existing natural grade of yards.

(2) Storm sewers, sanitary sewers and septic systems should be located and elevations set in a manner that requires a minimum of regrading and tree removal.

(3) Tree retaining walls shall be required if grades will be lowered by more than 12 inches to create level ground for road or building construction nearby. Those walls shall be used to protect roots from exposure and damage. If grades are to be raised around a tree by filling with new dirt, a dry wall around the base of a tree shall be provided to allow infiltration of water and air, and drainage tiles shall be provided to facilitate drainage away from the trunk and to avoid smothering the roots. Light porous materials shall be used for fill material.

(F) Where possible, no digging or trenching shall take place within the established Tree Preservation Area. If there is no alternative, certain precautions shall apply:

(1) Trenches shall be no closer to the trunk than half the distance of the Critical Root Zone area;

(2) Roots shall be cut with sharp instruments to reduce the potential damage to the tree; and

(3) The trench shall be filled within the shortest amount of time possible and the soil shall not be compacted.

(G) Appropriate protective fencing shall be temporarily installed to protect remaining trees. Trees to be saved in any development shall be surrounded by orange plastic or red picked snow fencing placed outside the critical root zone. The area within this fence shall be known as the Root Preservation Zone. The snow fencing shall be secured in place by posts spaced six feet apart and sunk two feet into the ground with a minimum above-ground height of four feet.

(H) All required protective fencing or other physical barriers must be in place and approved by the Village prior to beginning construction. Such fencing must remain in place during the entire construction period to prevent the impingement of construction vehicles, materials, spoils,

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and equipment into or upon the Tree Preservation Area and should not come down until all construction is completed and equipment and materials and debris have been moved off site.

(I) No attachments, signs, fences or wires, other than those approved for bracing, guying or wrapping trees, shall be attached to trees during the construction period.

(J) Other measures such as construction pruning and root pruning of trees directly affected by construction must also be indicated on the plan.

(K) Trees must be fertilized to aid in the recovery from possible construction damage.

(L) Periodic photo surveys may be required at the discretion of the Building Inspector during and after construction completion to document that appropriate tree preservation techniques were observed.

(M) The following guidelines shall apply to tree transplanting:

(1) Trees may be transplanted with a “tree spade” truck or be hand dug. The following procedures shall be followed for hand digging: tree balls shall be hand shaped, burlapped, and tied with twine to provide maximum protection to the root system structure. A ball chain shall be used to remove a hand dug ball from the hole.

(2) One-third to one-half of the vegetative growth shall be pruned from the top of the tree prior to transplanting or stockpiling, to balance root loss.

(3) If transplanted trees will be stockpiled they shall be set far enough apart to allow for air circulation. The balls will be covered with mulch. The root balls will be watered regularly and fertilized as needed.

(4) Upon planting, all trees shall be given the same orientation to the sun as they maintained in their previous location. The trunks should be marked with paint, indicating which side faced north, in its original location, prior to relocation.

Penalty, see § 95.99

§ 95.22 TREE REPLACEMENT.

(A) In the event that a tree or trees designated for preservation on an approved Tree Preservation Plan are severely damaged, destroyed or removed they shall be replaced upon notice by the Building Inspector at the rates specified in division (E) below.

(B) All trees planted to meet the tree replacement requirements of this chapter shall be common and native to northeastern Illinois and to the specific existing plant community found on the site. The tree replacement species are subject to the approval of the Building Inspector or designee.

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(C) Replacement trees shall be located close to the damaged or removed trees. If such placement is not feasible, an alternate location shall be approved by the Building Inspector.

(D) In the event that the Building Inspector determines that full replacement would result in the unreasonable crowding of trees upon the lot, the cash value of the outstanding trees including the cost of the tree and labor to install, as determined by the Building Inspector, shall be paid to the Village for the improvement of Village land.

(E) *Tree Replacement Schedule.*

TREE REPLACEMENT SCHEDULE	
DBH Inches of Existing Trees (in inches)	Minimum Caliper Inches of Replacement Trees **(see footnotes)
6 – 10	3 inches
11- 15	3 inches
16+	4 inches

* The number of replacement trees required will vary depending on the size of the existing tree(s). The petitioner has the option to use fewer but larger replacement trees than specified here subject to approval of the Buildings Inspector.

** In such cases the combined calipers of the replacement trees shall equal 1.25 times the DBH of the existing tree(s) which are designated for removal. For existing trees, in the event of the DBH is expressed in whole number of inches plus a fraction of an inch, the number shall be rounded to the nearest whole number (with one-half being rounded upwards).

Penalty, see § 95.99

§ 95.23 EMERGENCIES.

(A) In order to avoid danger or hazard to persons or property, during emergency conditions requiring the immediate cutting or removal of a tree or trees protected hereunder, a Tree Removal Permit shall be issued by the Building Inspector upon notice by the person removing the tree, and without submittal of a formal application.

(B) In the event of such an emergency if neither the Building Inspector nor a designated representative are available to issue such a Tree Removal Permit, it shall be lawful to proceed with the cutting of the tree or trees to the extent necessary to avoid immediate danger or hazard. In such event the person causing the cutting shall report the action taken to the Building Inspector within 48 hours thereof.

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§ 95.24 STOP WORK ORDER.

If, in the opinion of the Building Inspector, the necessary tree preservation precautions as specified in this subchapter were not undertaken before construction commenced or are not maintained at any time during construction, a Stop Work Order shall be issued by the Building Inspector until such time as the permittee complies with these precautions. If the situation is not promptly rectified penalty fees shall be charged as specified in § 95.99. Penalty, see § 95.99

§ 95.25 TREES PRESERVATION ESCROW.

A Tree Preservation Escrow shall be provided by the permittee to insure the installation, maintenance, and adequate performance of preservation measures on a project. These measures include installation of tree protection devices during construction, repair of damaged trees, removal of dead, dying, or hazardous trees, and planting of replacement trees. If the agreed-upon measures are not followed, the Village can use the funds to perform the work. On completion of the installation of vegetation, the permittee shall post a two year letter of credit in the amount of 125% of the total cost of landscape material for the first year, following Village acceptance of the installed landscaping, to guarantee the maintenance and replacement of planting and landscaping materials shown on the final development plan. This letter of credit may be reduced to 25 percent of total costs in the second year. The amount of the letter of credit shall be based on costs determined by a plant nursery and approved by the Building Inspector.

§ 95.99 PENALTY.

Whoever violates any of the provisions of the Tree Preservation regulations in this subchapter, or who shall interfere with the execution of enforcement thereof, shall be fined not less than \$100 nor more than \$500 per designated tree that is unlawfully removed in violation of any of the sections of this subchapter.