

**CHAPTER 17.22 OF THE VILLAGE OF INDIAN HEAD PARK MUNICIPAL CODE
AN ORDINANCE TO PROVIDE FOR THE PRESERVATION OF MATURE TREES**

17.22.010 Purpose and Intent

The purpose and intent of this Chapter is as follows:

- (a) maintaining and preserving mature trees within the Village on both public and private property;
- (b) promoting the zoning and development of property within the Village in such a manner to maximize aesthetic values and the preservation of the natural and wooded characteristics of the Village;
- (c) promoting the public health, safety and general welfare, including but not limited to the reduction of noise, air pollution and drainage problems and the preservation of natural resources; and
- (d) defining and limiting the powers and duties of the administrative officers and bodies as provided in this chapter and setting forth a permitting process for the removal of trees within the Village.

17.22.020 Definitions

The following words and terms, wherever they occur in this chapter, shall be interpreted as follows:

“Diameter Breast Height” means the diameter of the trunk of the tree measured in inches at a point 4.5 feet above ground line. This point of measurement is used for established and mature trees and is referred to as “DBH”. All references in this chapter to diameter size shall be to the DBH”.

“Tree means any self-supporting, woody plant together with its root system, growing upon the earth usually with one trunk, or a multi-stemmed trunk system, supporting a definitely formed crown. For regulatory purposes of this chapter, the plant commonly referred to as “buckthorn” shall not be considered as a tree.”

17.22.030 Removal of Trees Without Permit Prohibited

Unless otherwise specifically authorized in this code, it shall be unlawful for any person without a written permit from the Village to remove, cut, break, otherwise injure or destroy, or undertake any procedure, the result of which is to cause the death or substantial destruction of any tree with a DBH of 6 inches or greater.

17.22.040 Tree Removal Permit.

Permits authorizing the removal of trees may be issued by the Village in accordance with, but not necessarily limited to, the following conditions:

- (a) When removal is necessary to observe good forestry practice, with consideration given to the species of the tree, location, conditions, age, safety, historic and aesthetic value of the tree, optimizing the number of healthy trees a given parcel of land will support; or when such removal is in accordance with a Village approved landscape management plan.
- (b) When the tree, due to natural circumstances, is dead or irreversibly declining, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility service, creates unsafe vision clearance, or constitutes a health hazard. In instances where a permit is sought pursuant to this subsection, and where no additional services or inspections are required by the Village, the fee for a tree removal permit will be waived and no tree survey will be required.
- (c) When a tree is located within the original buildable area of a lot as defined under the terms of Title 17 of this Code. Neither the replacement requirements of Section 17.22.050 nor the permit fee of Section 17.22.060(5) shall apply to the removal of any tree under this subsection, unless the corporate authorities impose such requirements as part of an application for variance or other zoning relief under Title 17 of this Code.

The Director of Administration and Public Safety (“Director”) shall be authorized to issue permits pursuant to this Chapter, with the input of the Superintendent of Public Works and the Village Engineer, as the Director deems necessary.

17.22.050 Tree Replacement Requirements

When issuing a permit authorizing the removal of a tree, the Village may require replacement of the tree so removed in accordance with the following minimum standards:

any tree having a DBH of not less than 6.0 inches but not greater than 10.0 inches shall be replaced with a new tree having a DBH of 1.0 to 1.5 inches, and any tree having a DBH of greater than 10.0 shall be replaced with a new tree having a DBH of not less than 2.0 inches. The Village shall approve all species of trees to be planted on the property when the planting of replacement trees is required pursuant to this Chapter. In instances where a permit authorizing the removal of a tree or trees is issued by the Village, and the Village requires replacement of the removed tree or trees is issued by the Village, and the Village requires replacement of the removed tree or trees pursuant to this section, the permit fee otherwise required by the Chapter shall be waived.

17.22.060 Permit Application Procedure

Persons seeking a tree removal permit pursuant to this chapter shall submit their application in the form required and provided by the Village. The Village may require that an application pursuant to this chapter include any or all of the following:

- (1) A written statement indicating the reason for removal of the trees(s);
- (2) A general statement of the tree(s) to be removed, including species and size;
- (3) A tree survey of the lot, showing the location and species of all trees of 3 inches DBH and larger;
- (4) A tree preservation plan indicating the trees to be preserved and the methods to be used to preserve such trees; and
- (5) A permit fee in the amount of twenty-five dollars (\$25.00), except as otherwise expressly waived pursuant to the other provisions of this Chapter. One permit application and the payment of one permit fee shall authorize the removal of all trees indicated in the permit, provided that all such trees are located on the same parcel.

17.22.070 Permit Issuance - Appeal

The Village shall issue a permit upon approval of the application and payment of the required fee. The Village shall render a decision on a permit application within ten (10) business days of receipt of a properly completed application. The Village may extend this review period only for good cause and upon notice to the applicant. Any person aggrieved by any decision of the Director of Administration and Public Safety, the Department of Public Works or the Village Engineer in the denial of any permit application or the enforcement of any terms or provisions of this chapter may, within ten (10) days after the date of the decision, appeal to the Mayor and Board of Trustees by filing a written notice of appeal with the Village Clerk. The notice shall set forth concisely the decisions and the reasons or grounds for the appeal. Reasonable notice of the hearing shall be provided by the Village Clerk to all adjacent property owners. The Board may affirm, modify or reverse the decision.

The decision of the Board shall be final and no petition for rehearing or reconsideration shall be available.

17.22.080 *Cash Bond*

If tree replacement is required by this chapter, then as a condition of the tree removal permit, the Village may require the applicant to submit a cash bond equal to the cost of the replacement trees and their installation. This bond shall be for the purpose of assuring that the replacement trees are purchased and planted.

17.22.090 *Tree Limitations*

A permit shall expire and become null and void if work authorized is not commenced within sixty (60) days from the date of the permit or is such work when commenced is suspended or abandoned at any time for a period of 60 days. If work has commenced and the permit becomes null and void or expires because of lack of progress or abandonment, a new permit for the proposed tree removal activity shall be obtained before proceeding with further work. The time limitations set forth in this section shall apply to the complete removal of the subject tree or trees, including grinding or other removal of the tree stump to grade level.

17.22.100 *Exception for Emergency Removal*

If because of a weather emergency or other casualty condition, a tree is endangering health, safety or property and requires immediate removal, verbal authorization may be given by the Village Director of Administration and Public Safety, the Village Engineer, or the Superintendent of Public Works and the tree removed without obtaining a written permit. Such verbal authorization shall be later confirmed in writing by the Village. If none of the individuals referenced in this section are reasonably available, in the event of such an emergency, it shall be lawful to proceed with the cutting of a tree or trees without permission to the extent necessary to avoid the immediate danger or hazard. In the event of the cutting of any tree under the provisions of this section, without the prior filing of a permit application, the person doing so shall within 48 hours thereafter, report the action taken to the Village and shall forthwith provide such information and evidence as may be reasonably required by the Village to explain and justify the action taken.

17.22.110 *Tree Protection*

If work is to be accomplished pursuant to a development or a building permit, the following tree protection measures shall be taken for the preservation of existing trees on the site for which a tree removal permit is not obtained:

- (a) Protective fencing is required for protection of any tree to be preserved in place within fifteen (15) feet of any construction or construction material or construction equipment storage and is to be shown on the tree preservation plan, notwithstanding property ownership delineations. All required protective fencing must be in place and approved by the Village before a building permit will be issued. All fencing must remain in place during the entire construction. All fencing must be secured to metal posts driven into the ground and spaced no further than ten (10) feet apart. Fencing shall not be removed or relocated unless authorized in writing by the Village. The approved tree preservation plan shall be available on the building site before work commences and always during construction of the project. The general contractor shall be responsible for giving written notice of the tree preservation plan and tree removal permit to all contractors or sub-contractors prior to their coming onto the site.
- (b) Pumping of concrete for the foundation or other protective measures such as crown pruning and root pruning may be required by the village if necessary for preservation of the existing trees. These measures must be indicated on the tree preservation plan.
- (c) During construction all reasonable steps necessary to prevent the destruction or damaging of trees to be preserved in place shall be taken.
- (d) During construction unless otherwise authorized by the tree preservation plan, no excess soil, additional fill, equipment, liquids or construction debris, shall be placed within the root zone of any tree that is required to be preserved in its present location.
- (e) No attachments, fences or wires, other than approved materials for bracing, guying or wrapping, shall be attached to any vegetation during the construction period.
- (f) All measures shall be taken to maintain the health of trees which are transported to the site.

17.22.120 Penalty

Any person found guilty of violating any provision of this chapter shall be subject to a fine of not less than \$100 nor more than \$750 for each offense. Each tree cut down, destroyed, removed or moved in violation of this chapter shall constitute a separate offense. In addition to these penalties, if a tree is removed in violation of this chapter, all replacement requirements of this chapter shall be applied. The penalty provisions of this section shall not preclude the Village from instituting a civil action in a court of competent jurisdiction to establish liability and recover damages for any injury caused by the removal of trees in violation of this chapter, or a civil action to seek injunctive relief to enforce compliance with

this chapter and to enjoin any violation or prevent irreparable injury to the trees or properties encompassed by the terms of this chapter.

17.22.130 Compliance

The Director of Administration and Public Safety, the Department of Public Works and the Village Engineer shall retain concurrent jurisdiction to insure compliance with this chapter and shall have the right to issue a stop work order for non-compliance. No stop work order issued pursuant to this section shall be removed by the Village unless the applicant has paid a re-inspection fee in accordance with the Village fee schedule.

17.22.140 Planned Unit Developments

Nothing in this Chapter shall prevent the Village from imposing different requirements for the removal and/or replacement of trees, including corresponding permit fees, in connection with a new planned unit development. A new planned unit development for purposes of this section shall be any planned unit development in which the public improvements and/or common areas have not yet been dedicated to the governing association of the development.

17.22.145 Existing Planned Unit Developments

An existing planned unit development shall be defined as any duly approved planned unit development within the Village that does not qualify as a new planned unit development as defined in Section 17.22.140. Existing planned unit developments shall be exempt from the terms and conditions of this Chapter 17.22, except as provided in this section. Existing planned unit developments must comply with the following requirements:

- (a) Any tree to be removed within the planned unit development shall be replaced in accordance with the following minimum standards: any tree having a DBH of not less than 6.0 inches but not greater than 10.0 inches shall be replaced with a new tree having a DBH of 1.0 to 1.5 inches, and any tree having a DBH of greater than 10.0 inches shall be replaced with a new tree having a DBH of not less than 2.0 inches. The species or variety of replacement trees and the location of replacement trees shall be at the discretion of the governing body of the planned unit development. Nothing in this subsection shall require the replacement of a tree that would not otherwise be required to be replaced under this Chapter.

- (b) On or before April 1, 2001, and on or before April 1st of every year thereafter, each existing planned unit development must submit a tree landscape plan to the Village on a form to be provided by the Village, which sets forth the development's plans for the removal and replacement of any trees for the upcoming twelve-month period.
- (c) On or before January 31, 2001, and on or before January 31st of every year thereafter, each existing planned unit development must submit a tree landscape summary report to the Village on a form to be provided by the Village, which shall include a summary of the tree removal and replacement activities within the development over the previous calendar year.
- (d) On or before January 31st of every year, each existing planned unit development associations must provide a summary of trees that are planned to be removed during the previous calendar year.