

**ORDINANCE NO. 2024- 10**

**AN ORDINANCE ESTABLISHING A REVISED COMPREHENSIVE REGULATIONS FOR THE PROTECTION, PRESERVATION, PLANTING AND REGULATION OF TREES AND REPEALING ORDINANCE NO. 2013-22**

**WHEREAS**, the Village of Bannockburn (the “Village”) is a home rule municipality operating under the authority of Article VII, Section 6 of the Illinois Constitution; and

**WHEREAS**, the Village is recognized for, and takes pride in, its natural, wooded streetscapes and foliage, which are an essential part of the Village' s character; and

**WHEREAS**, the presence of trees and other vegetation aids in storm water management, helps to prevent erosion, improves air quality, conserves energy, provides a wildlife habitat, and preserves and enhances property values; and

**WHEREAS**, the Village has adopted comprehensive regulations for the protection, preservation, planting and regulations of trees, the Trees and Woodland Protection Regulation in Chapter 216 of "The Municipal Code of the Village of Bannockburn, Illinois," as amended ("Village Code"; and

**WHEREAS**, since the adoption of the Tree Preservation Regulations, the Village has determined that changes are necessary to: (i) bring the Village Code up to date with the Village's current practices; and (ii) further enhance the goals of preserving existing trees and promoting repopulation and diversity to the urban forest; and

**WHEREAS**, the President and Board of Trustees of the Village of Bannockburn desire to amend and restate its comprehensive regulations relating to trees; and

**WHEREAS**, to this end, the President and Board of Trustees hereby repeal Ordinance No. 2013-22 being "An Ordinance Amending and Establishing Revised Comprehensive Regulations for the

Protection, Preservation, Planting and Regulation of Trees" and adopt the amended and restated "Bannockburn Tree Ordinance" as set forth in Attachment A below;

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT BOARD OF TRUSTEES OF THE VILLAGE OF BANNOCKBURN, COUNTY OF LAKE, STATE OF ILLINOIS, as follows:**

**SECTION ONE:    Recitals.** The foregoing Recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

**SECTION TWO:    Bannockburn Tree Ordinance.** The President and Board of Trustees hereby approve a Bannockburn Tree Ordinance for the Village of Bannockburn, Illinois, adopted on May 13, 2024 by Ordinance No. 2024-10, as provided in Exhibit A attached hereto and made a part hereof.

**SECTION THREE:    Repeal.** Except with respect to tree permit applications submitted before May 13, 2024, the Bannockburn Tree Ordinance as approved by Village of Bannockburn Ordinance No. 2013-22 (the "Prior Tree Ordinance") is hereby repealed in its entirety and replaced by this Ordinance, as Exhibit A attached hereto. Any tree permit application submitted before May 13, 2024 shall be subject to the Prior Tree Ordinance.

The provisions of this Ordinance are severable. If any provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severed without further action of the Village Board, and such holding shall not affect the validity of the remaining provisions of this Ordinance.

**SECTION FOUR:    Effective Date.** This Ordinance shall apply to all tree permit applications which have been submitted after May 13, 2024. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED this 13<sup>th</sup> day of May, 2024.

AYES: Boyle, Cox, Herrmann, Koro, Martin, Turner

NAYS: None

ABSENT: None

APPROVED this 13<sup>th</sup> day of May, 2024.



Village President

ATTEST:



Village Clerk



CHAPTER 216

TREES & WOODLAND PROTECTION AND PRESERVATION

SECTION 1

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**§216-1 SHORT TITLE**

This chapter shall be known, cited, and referred to as the "Bannockburn Tree Ordinance."

**§216-2 STATEMENT OF PURPOSE**

This section of the Code is structured to preserve, protect, plant, maintain and enhance critical infrastructure – our urban forest. This Section will regulate trees as a collective resource for the Village of Bannockburn on public and private property.

The purpose of this Section is to recognize the services and function that trees provide as a collective asset to the entire community and to state the goals of the Village of Bannockburn with respect to the protection, preservation, care and planting of trees on public and private lands and encourage the protection of healthy trees, support biodiversity and ecological health goals, and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment;

We recognize that trees:

- A. Protect, preserve and enhance the quality of life, environmental health, and general welfare of the Village of Bannockburn and its property owners, and conserve and enhance the Village of Bannockburn's natural, physical and aesthetic environment.
- B. Must be properly planted and maintained within the Village of Bannockburn so that trees can protect, enhance and preserve the quality of life for people within the Village of Bannockburn.
- C. Play an integral part of the infrastructure of the Village of Bannockburn and as such are preserved, protected and cared for as other critical Village of Bannockburn infrastructure. Trees provide the following services and benefits:
  1. Absorb dust and other airborne pollutants from the air;
  2. Aid in the purification of air by absorbing and sequestering carbon dioxide;
  3. Absorb and filter pollution from stormwater run-off;
  4. Protect an important link in the hydrologic cycle by transpiring water and the neutralization of waste that pass through to the groundwater table and other aquifers;
  5. Produce oxygen;
  6. Reduce flooding and costs associated with flooding;
  7. Stabilize soils and reduce erosion and sedimentation;
  8. Restore as much as possible the denuded soil resulting from construction or grading work which accompanies development;
  9. Cool the surrounding area helping to reduce impacts due to heat islands;
  10. Reduce energy consumption by shielding structures from harsh winds and sun;
  11. Provide a buffer and screen against noise and light pollution;
  12. Protect and improve property values in a manner that will maintain each individual's enjoyment of his or her property;
  13. Conserve and enhance the Village's physical and aesthetic environment, especially its valuable natural and rural atmosphere;
  14. Improve commercial district traffic and purchasing;
  15. Provide important mental health benefits;
  16. Reduce levels of aggression, violence and crime;
  17. Assist in creating areas with higher levels of community interaction;
  18. Protect and enhance the quality of life and general welfare of residents and visitors to the Village of Bannockburn.

19. Provide important ecological services in the form of habitat for birds, insects and other forms of wildlife which are essential to the maintenance of the food chain and which provide assistance in the control of disease-carrying mosquitoes, other environmental nuisances, and pests.
- D. Provide collective Village of Bannockburn benefits not limited to property or community boundaries.
  - E. Efforts shall be taken to eliminate nuisance trees that constitute a threat, danger, or nuisance to the public or property in the Village of Bannockburn or that may be dangerous to the health of other trees and vegetation in the Village of Bannockburn as determined by the Village of Bannockburn.

### **§216-3 STATUTORY AUTHORITY**

In furtherance of the purposes and intent of this chapter, the Village intends to employ the powers, methods and instrumentalities authorized pursuant to the Village's home rule authority pursuant to Article 7, Section 6, of the Illinois Constitution of 1970 and the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.), including but not limited to the power to zone, and the power to regulate subdivisions, and to complement the state's interests and values as stated through the enactment of the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and other relevant laws.

### **§216-4 SCOPE; APPLICATION; AND EXEMPTIONS.**

- A. General application; cumulative provisions. The provisions of this chapter shall apply generally and uniformly to all areas and districts within the Village of Bannockburn, except as provided in Subsections **B** and **C** hereof. The provisions of this chapter shall be cumulative with consistent provisions of other ordinances of the Village of Bannockburn and of the statutes of the State of Illinois and the United States, and to the extent consistent shall be applied and enforced simultaneously. Whenever inconsistent, the provision resulting in the maximum protection, preservation, or planting of trees or the highest quality of trees shall govern, except where limited by law. It is intended, in particular, that the provisions of this chapter shall be applied cumulatively and simultaneously with the provisions of Village Code Chapter **260**, Zoning, Chapter **205**, Subdivision Regulations, the Bannockburn Building Code, the Bannockburn Storm and Sanitary Sewerage Systems and Facilities Regulations, the Bannockburn Water Systems and Facilities Regulations, and the Bannockburn Plumbing Code, and no approvals or permits issued pursuant to such ordinances and codes shall be deemed to authorize the killing, destruction, removal or planting of trees without also complying with the applicable provisions of this chapter.
- B. Exemptions. The permit requirements set forth in § **216-18** below shall not apply to:
  1. Trees that the Village Forester has determined have become, or immediately threaten to become, a hazard to persons, property or vegetation and must be destroyed in accordance with § **216-14** below.
  2. Properties for which a specific landscaping or tree preservation plan has, prior to the effective date of this chapter, been approved pursuant to the terms of an annexation agreement, special permit ordinance, or other specific agreement or ordinance applicable to such property.
  3. Prior permits issued that are still open and valid.
- C. Exceptions. The Village Board may authorize exceptions to any of the requirements and regulations set forth in this chapter, provided that the granting of the exception will not defeat the fundamental purpose and intent of this chapter nor be detrimental to the public property in the vicinity of the subject property for which the exception is requested.
- D. Enforcement. The Building Commissioner is responsible for enforcement and compliance of this Chapter.

## **§216-5 DEFINITIONS AND WORD USAGE**

- A. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense and words in the singular include the plural. The word "shall" is always mandatory and not merely directory. Words not defined herein but defined in Chapter 260, Zoning, shall have the meanings ascribed to them in Chapter 260. Other words not defined herein or in Chapter 260 shall have their usual and customary meanings with reference to related ordinances of the Village.
- B. As used in this chapter, the following terms shall have the meanings indicated:

### **APPLICANT**

An owner of a lot, parcel or tract of land for which an application has been filed for a permit, subdivision or any activity requiring the issuance of a permit. A contractor is an agent, acting on behalf of the Applicant – the landowner and may be the Applicant.

### **ARBORIST**

Any individual experienced in the profession of forestry or a related field and is licensed or certified in forestry by an accredited forestry industry body, e.g. International Society of Arboriculture.

### **AT-RISK TREE**

Any tree that the Village Forester identifies as being at risk of a serious infestation, disease, threat to public structures and/or right of way, or overcrowding that presents a risk to the overall health of the trees within the Village.

### **BUCKTHORN**

An undesirable exotic invasive ornamental shrub introduced to North America commonly known as "buckthorn" (Genus: Rhamnus). This species inhabits woodlands and savannas where it dominates the landscape prohibiting the development of native trees and plants. There are six species of buckthorn listed in the Illinois Exotic Weed Act, which prohibits the sale, distribution or planting of this species, common buckthorn (*Rhamnus cathartica*), dahurian buckthorn (*Rhamnus davurica*), glossy buckthorn (*Rhamnus frangula*), saw-toothed buckthorn (*Rhamnus arguta*), Chinese buckthorn (*Rhamnus utilis*), and Japanese buckthorn (*Rhamnus japonica*).

### **BUFFERYARD**

The requisite vegetated area between properties, at various district boundaries, and along certain rights-of-way established pursuant to §260-907 "Landscaped Bufferyards" of the Bannockburn Zoning Code.

### **BUFFERYARD**

Any tree (regardless of caliper or DBH size) that is located within a bufferyard.

### **BUILDING ACTIVITY AREA**

The portion of a property within which development activity, including grading, excavation, storage of materials, construction access and construction of both main buildings and unattached structures.

### **BUILDING COMMISSIONER**

The Building and Zoning Commissioner of the Village or his or her duly designated agent or such other person as may from time to time be specifically appointed by the President and Board of Trustees to carry out all or any part of the functions of the Building Commissioner under this chapter.

### **CALIPER**

The diameter of the trunk of a tree measured as defined by the most recent edition of "American Standard

for Nursery Stock (ANSI):

1. Six inches above the ground line for nursery stock up to and including four inches in caliper.
2. Twelve inches above the ground line for nursery stock exceeding four inches in caliper.

### **CANOPY**

The upper portion of a tree sometimes called the crown. This section of the tree usually contains branches and leaves.

### **CONSERVANCY OR PRESERVATION AREA (EASEMENT)**

An area under legal restriction, designated on a recorded plat, deed, or covenant, within which the following requirements are enforced:

1. Any area within which all existing vegetation shall be preserved for the purpose of retaining the natural character or special environmental state or control.
2. Any area with a special designation providing screening from adjacent uses or a public or private street.
3. No plant material shall be removed from or planted in a Conservancy or Preservation Area without a permit from the Village of Bannockburn authorizing removal or planting.
4. Conservancy or Preservation Areas may be established as part of the subdivision process or through the issuance of a special use permit.
5. No undesignated structures, including fencing shall be located in a Conservancy or Preservation Area.
6. In all instances the approved language on the plat shall prevail.

### **CRITICAL ROOT ZONE**

An area on the ground extending out from the trunk of the tree in all directions a distance of at least one foot for every inch DBH

### **CONSTRUCTION ACTIVITY**

Any man-made change, including, without limitation:

1. Maintenance of existing structures, paved areas, or utilities, to improved or unimproved real estate;
2. The construction or installation of new, or the enlargement of existing, structures, streets, or utilities;
3. Dredging, filling, clearing, drilling, mining, grading, paving, or excavating operations;
4. Demolition; and
5. Open storage of materials.

### **CUTTING**

1. Felling or removal of a tree, or any procedure that results in the death or substantial destruction of a tree.
2. Cutting does not include normal pruning or trimming of trees consistent with standard forestry practices.

### **DAMAGE**

Impact to any tree, taking of any direct or indirect action that causes, or is reasonably likely to cause, the death of a protected tree or a significant loss of a protected tree's structural integrity, including, without limitation but limited to: removal, destruction, poisoning, carving, mutilating, girdling, severing the main trunk, leader, or large branches, touching with live wires, soil contamination, topping, canopy removal, bark removal, root compaction, crushing, removal or exposing the roots, digging or drilling any hole or trench within the Critical Root Zone, filling with soil or other materials within the Critical Root Zone, compacting a substantial portion of the soil in the Critical Root Zone or moving a tree to another location and or/ actions resulting in the decline or death of a tree. Without limiting the foregoing, "damage" does not include the pruning of protected trees in accordance with Standard Practices for Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300) and Tree Pruning Guidelines published by the International Society of Arboriculture or similar standards and guidelines from time to time recommended in writing by the Village Forester.



**DECIDUOUS TREE**

A deciduous tree is one that loses most or all of its leaves for part of the year.

**DESTRUCTION; DESTROY**

Causing the death of a tree through removal, damaging, poisoning, or any other direct or indirect actions resulting in its death, including the demise of any tree on a subject property within two years after the later of the completion of construction activity on such subject property or the issuance of a certificate of occupancy.

**DEVELOPMENT**

Any proposed change in the use or character of land, including, but not limited to the replacement of any structure or site improvements, e.g. irrigation installation, driveway replacement, installation of a retaining wall among others. When appropriate to the context, development may refer to the receipt or necessity of any building, tree or site work permit.

**DIAMETER AT BREAST HEIGHT (DBH)**

The diameter of the trunk of the tree measured in inches at a point 4.5 feet above ground line. This point or measurement is used for established and mature trees and is referred to as "DBH". All reference to diameter size for established and mature trees shall be to the DBH.

**ENVIRONMENTAL PROFESSIONAL**

A degreed environmental scientist, biologist, botanist, forester, other similarly degreed and/or licensed plant professional with at least five years' experience in planting and maintaining native plants and their associated natural ecosystems.

**EVERGREEN TREE**

A tree that retains most of its leaves for most of the year.

**GROUND LINE**

The elevation of the existing ground at the point where the trunk of the tree meets the existing ground. If the tree is on a slope, then the average elevation of the existing ground is used.

**INFRASTRUCTURE**

The basic underlying framework or features that provide collective services, including but not limited to roads, waterlines, storm sewers, bioswales and trees.

**LANDSCAPE CONTRACTOR**

A company or individual contracted to perform landscape construction services.

**LANDSCAPE PLAN**

A plan approved by the Village of Bannockburn defining the location and species of plants and associated hardscape, including any grading proposed or required as part of the plan.

**LANDSCAPE MANAGEMENT PLAN**

A plan approved by the Village of Bannockburn outlining the strategies for care and management of a specific type of landscape.

**LANDSCAPE (PLANTING) SEASON**

The period of April 15 – June 15 and September 15 - November 1 each calendar year.

**LANDSCAPE PROFESSIONAL**

A registered landscape architect, horticulturalist or other similarly degreed, experienced and/or licensed plant professional.

**NUISANCE TREES**

Nuisance trees are trees that may provide negative impacts to other trees, vegetation, people or structures. This would include, but not be limited to, diseased, infested, structurally unsound trees or known invasive species.

**PARCEL**

A single parcel shall mean any lot of record, zoning lot or any grouping of adjacent lots under single ownership, serving a principal structure or use.

**PERSON**

Any public or private individual, group, company, firm, corporation, partnership, association, society or any other combination of human beings, whether legal or natural, but shall not include the Village or its employees or officials.

**PREFERRED TREE LIST**

A listing of tree species, located in the Village of Bannockburn Urban Forest Management Plan.

**PROPERTY OWNER**

An individual or organization who owns property located within the corporate limits of the Village of Bannockburn.

**REFORESTATION PLAN**

The written plan submitted in connection with a use change to the Village pursuant to this chapter providing for the installation or replanting of trees on the subject property to replace destroyed trees, subject to such terms and conditions as shall be specified in the plan, as approved by the Village.

**REGULATED ARTICLES**

Any insects at any living stage of development, any quarantined materials such as wood products including, but not limited to chips, limbs, lumber, firewood, contaminated soils, or any other product or means of conveyance which may be determined by Federal or State departments of agriculture to pose a risk of spread of any infestation or infection.

**SHRUB**

Any woody plant, together with its root system, of low height with several stems, except anything that is an Invasive Species.

**SIMPLE TREE REMOVAL**

Removal of a tree without other associated site impacts or other site improvements.

**SITE**

That parcel of land for which a permit for landscaping or tree removal is sought.

**STREET TREE**

Any tree located on or within the public right-of-way or right-of-way easement.

**SUBJECT PROPERTY**

Any lot as that term is defined by Chapter 260, Zoning, of the Village Code, which, or any portion of which, is affected by a use change.

## **TRANSPLANTING**

The removal of any tree for replanting elsewhere.

## **TREE**

Any self-supporting woody plant, together with its root system, trunk and canopy; growing upon the earth usually with one trunk, or a multi-stemmed trunk system, supporting a definitely formed crown. Each tree shall be categorized into the following categories: Preferred, Undesirable or Invasive which can be found in the Urban Forest Management Plan.

## **TREE CATEGORIES**

The categories utilized by the Village of Bannockburn (i.e. Preferred, Undesirable, or Invasive) are based on species characteristics, native vs non-native status, biodiversity goals, and overall environmental health/quality. Evaluation of individual tree condition, health, or location are typically performed as part of a tree inventory process and the evaluation of the Village Forester. Factors include environmental suitability, biological traits (i.e. growth rate, pest resistance), maintenance requirements and aesthetic characteristics, as originally established by the Illinois Arborist Association '*Species Ratings & Appraisal Factors for Illinois*'.

## **TREE INVENTORY**

For all trees 2" DBH and larger on a subject property, data shall be collected for each tree including species, size, condition, any notable problems, and tree category. Trees shall be tagged in the field, with a numbered tag for identification purposes, and shown on the tree survey.

## **TREE PERMIT**

A written authorization from the Village of Bannockburn authorizing the applicant to conduct work which may or may not impact a tree.

## **TREE PRESERVATION PLAN**

A document, required as part of a permit by the Building Commissioner or Village Forester, which identifies, by common name and/or scientific name, certain species of trees of a specified DBH within a particular area. The plan shall list, all existing and proposed trees and bufferyard shrubs shall specifically state how each tree/shrub is proposed to be destroyed, relocated, replaced, preserved at its present location, introduced into the site from an off-site source, and whether the tree/shrub is to receive remediated actions due to construction impacts, e.g. root pruning. The Village of Bannockburn may provide that the tree preservation plan excludes those portions of the site which it determines will not be affected by the activity. Any tree preservation plan required by this Section that has been approved by the Village of Bannockburn is valid for thirty-six (36) months.

## **TREE REMOVAL**

The cutting down, destruction, removal or relocation of any tree, including damaging by poison or other direct or indirect action.

## **URBAN FOREST MANAGEMENT PLAN**

A detailed plan developed by the Village of Bannockburn under the direction of a certified arborist or Village Forester which protects this valuable infrastructure and outlines thoughtful strategies for tree planting, selection, care and preservation for the Village of Bannockburn and complies with recognized national standards.

**USE CHANGE**

1. "Use change" shall mean:
  - (a) Any subdivision of property as defined by Chapter 205, Subdivision Regulations, of the Village Code, as amended;
  - (b) The commencement of any activity pursuant to a variation, amendment, special use or special use-planned unit development granted in accordance with the provisions of Chapter 260, Zoning, of the Village Code;
  - (c) The commencement of any activity requiring the issuance of any grading, building, demolition, sewerage, water, plumbing or other permit (but not a license or certificate) required pursuant to any Village ordinance;
  - (d) Any activity involving construction, earth moving, demolition, or vehicular traffic, or any similar activity, occurring within a Critical Root Zone; or
  - (e) Any activity involving the damage or destruction of a tree.
  
2. However, a use change shall not include activity deemed by the Building Commissioner or the Village Forester to be pruning conducted in accordance with the Standard Practices for Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300) and Tree Pruning Guidelines published by the International Society of Arboriculture or similar standards and guidelines from time to time recommended in writing by the Village Forester.

**VIABLE**

A tree, which in the judgment of the Village of Bannockburn, is capable of sustaining its own life processes, unaided by a person, for a reasonable period of time.

**VILLAGE**

The Village of Bannockburn.

**VILLAGE FORESTER**

An individual trained and experienced in the profession of forestry and approved by the President and Board of Trustees to provide professional and technical forestry advice to the Village and to assist in the administration of this chapter.

**§216-6 PRESERVATION**

- A. The care and protection of trees and shrubs in the Village shall be within the jurisdiction of the Building Commissioner. The Village of Bannockburn shall have as a minimum one Village Forester. Any urban forestry work completed by a contractor within the Village of Bannockburn shall be reviewed by the Village Forester. It shall be the responsibility of the Building Commissioner, with such advice and assistance of the Village Forester, to review plans and permit applications, to make inspections, to make recommendations, and to provide generally for the care and management of trees and shrubs in the Village.
- B. The Village of Bannockburn shall have an urban forest inventory for all public trees. The Urban Forest Management Plan shall be based on this inventory.
- C. The Village of Bannockburn shall have an approved Urban Forest Management Plan. This plan shall be the framework for the protection, management and planting of trees within the Village of Bannockburn and shall support and clearly define the regulations identified in the Tree Preservation Ordinance. This Plan shall include the following:
1. A defined ten-year urban forestry strategy with clearly identified one, five and ten year goals;
  2. Community canopy mapping identifying existing tree canopy and priority locations for planting;
  3. A strategy for completion and maintenance of a tree inventory on public property;
  4. Clear guidelines on tree species and age diversity;
  5. Clear identification of replacement value and requirements for tree removal or damage;
  6. A preferred tree list which will include native and non-native trees;
  7. Clearly defined specifications for tree planting, pruning and impact reduction;
  8. A risk assessment and management program;
  9. A strategy for management, preservation and protection of naturalized areas;
  10. A strategy for administration and implementation of a volunteer program;
  11. Clear identification of staff qualifications, training, support and needs;
  12. Specifications for contracted labor and consulting;
  13. Clear identification of forestry equipment and resource needs; and
  14. A forestry budget with one, five and ten year recommended commitments.
- D. The Village of Bannockburn shall require that any contractor, working for the Village of Bannockburn who may interact or have impact on the Village of Bannockburn public property urban forest, must provide all insurance certificates and policies of insurance specified in the Village of Bannockburn's standard professional service contracts, utilize the Village Forester for advice and guidance when performing any and all work pertaining to trees, including but not limited to removal, pruning and planting activities. It is recommended that private landowners utilize a certified arborist for all work pertaining to trees, including but not limited to removal, pruning and planting activities.
- E. All tree planting, selection and management shall be in compliance with the Village of Bannockburn Urban Forest Management Plan.
- F. It is recognized that diverse species and age structure of urban trees throughout the Village of Bannockburn are critical to the health of the forest structure and protects the Village of Bannockburn from catastrophic loss and improves the overall longevity of the Village tree canopy. Specifications for species and age diversity, planting and management are contained in the Urban Forest Management Plan.
- G. No alteration of any conservancy area shall be permitted without the written approval of the Village President and the Board of Trustees nor, in any case, in violation of any valid covenant or other agreement to conserve or protect the natural features, trees, shrubs, and other wildlife enforceable with respect to any area within the Village.

- H. No bufferyard tree shall be removed from a bufferyard unless a valid tree permit has been issued authorizing such removal. Except as otherwise provided by **§216-8**, the application for such tree permit shall include a tree preservation plan and a reforestation plan providing for the preservation, replacement and/or replanting of plant units in the affected bufferyard in sufficient number and appropriate species to achieve the opacity value required under the Table of Required Opacity Value set forth in § 260-907D(1) of the Bannockburn Zoning Code (the "opacity requirements"); provided, however, that if the affected bufferyard meets or exceeds the required opacity value as set forth in § 260-907 of the Zoning Code, notwithstanding the removal of the bufferyard trees or bufferyard shrubs, as the case may be, the applicant shall only be required to comply with the replacement and replanting obligations of this chapter for the removed trees.

#### **§216-7 TREE PROTECTION**

This Section applies to any work being conducted on property which may impact public or private property trees.

- A. Unless otherwise authorized by this Section, it shall be unlawful for any person to remove, injure or undertake any procedure which will cause death, substantial damage to individual portions of the tree including the critical root zone, or create a hazard, to any tree without first obtaining a Tree Permit from the Village of Bannockburn.
- B. In the event of any Construction Activity or Development, as part of the Tree Permit, a Tree Preservation Plan is required, and must be reviewed by the Village Forester and approved by the Village of Bannockburn, and implemented prior to the start of any work or delivery of any materials to the Building Activity Area. The approved Tree Preservation Plan shall be available on the site throughout the entire construction period until final approvals for all site work shall be received in writing.
- C. In instances where construction or site work requires heavy equipment, all appropriate tree protection measures must be taken and identified in the Tree Preservation Plan and in compliance with specifications outlined in the Urban Forest Management Plan. Said measures shall be implemented prior to any work or delivery of any materials to the Building Activity Area.
- D. Tree Protection Installation: while preferred installation methods are defined and described in more detail in the Urban Forestry Management Plan, where possible tree protection fencing should be contiguous to create an "envelope" to minimize the possibility of impact to individual portions of the tree including the critical root zone or intrusion into preservation areas.

#### **§216-8 TREE REMOVAL**

Tree removals of greater than 2" or greater in DBH are considered an impact to the entire Village of Bannockburn, whether on public or private land. It is clearly documented that larger trees provide larger benefits and as such, tree removal fees and fines are based on diameter (See the Comprehensive Fee Schedule). It is recognized that the planting of young trees to replace the value of mature trees will take tens of years, and for this reason efforts should be made to preserve and protect existing trees where they are growing.

- A. It shall be unlawful for any individual to remove or cause damage to any tree located on public property without first receiving a Tree Permit from the Village of Bannockburn.
- B. Notwithstanding any provisions in this chapter to the contrary, no live, dead, dying due to disease or insect infestation, or that is otherwise hazardous trees or shrubs due to natural conditions or force majeure from subject property or grouping of trees on private property within the Village may be removed from private property without first obtaining a permit from the Village of Bannockburn and must thereafter comply with, this Subsection B.

1. The person wishing to remove one or more trees or shrubs that are dead or dying due to disease or insect infestation or that are otherwise hazardous due to natural conditions or force majeure must apply for and obtain a tree permit as required by § 216-18 of this code prior to the removal of any such tree or shrub.
  2. In connection with a tree permit issued under this Subsection B, the Village Manager shall waive any requirement for a tree preservation plan or reforestation plan under §216-18(B)(k) and a fee-in-lieu under § 216-10(F) if the Village Forester certifies that the tree or shrub to be removed is dead or dying as a result of disease or insect infestation or is otherwise hazardous due to natural conditions or force majeure.
  3. Notwithstanding the provisions of Subsection B(2), if the tree or shrub to be removed pursuant to a tree permit issued under this Subsection B was planted on a zoning lot located in any zoning district other than the A or B District a) pursuant to an approved reforestation plan or tree preservation plan; b) in connection with the establishment or a required bufferyard pursuant to § 260-907 of the Bannockburn Zoning Code; or c) to satisfy a requirement or condition of a zoning permit or approval, annexation agreement, Architectural Review Commission approval, or other specific agreement, ordinance, permit, or approval applicable to the subject property (collectively "plan or approval"), then the permittee shall be required to replace the tree or shrub to the extent required by, and in accordance with, such plan or approval.
  4. Notwithstanding the provisions of Subsection B(2), if the tree or shrub to be removed pursuant to a tree permit issued under this Subsection B was planted on a zoning lot located in the A or B District and such tree or shrub was originally required in connection with a specific approval of the Board of Trustees, then the permittee shall be required to replace the tree or shrub to the extent required by, and in accordance with, such approval of the Board of Trustees.
- C. Removal of a nuisance tree as described in Section 216-14 shall require a Tree Permit from the Village of Bannockburn. In the event of an emergency, and access to the Village of Bannockburn is not possible, a nuisance tree may be removed without a permit, however, the property owner shall take photographs and memorialize the nuisance situation prior to removal and shall follow up with a request for a tree permit from the Village of Bannockburn on the next business day.
- D. Any tree removed from a parcel or transplanted elsewhere must be replaced according to the regulations outlined in the Urban Forest Management Plan and pursuant to § 260-907 of the Bannockburn Zoning Code.
- E. A tree may be removed with a Tree Permit when necessary to observe good forestry practice such as optimizing the number of healthy trees in a given parcel of land, as determined at the sole and absolute discretion of the Village of Bannockburn, or when such removals are in accordance with the Village of Bannockburn approved Urban Forest Management Plan, Landscape Plan or Landscape Management Plan.
- F. A tree may be removed, with a Tree Permit, due to natural circumstances, or when it is dead or irreversibly declining, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with overhead utility services, creates unsafe vision clearance, or constitutes a health risk, when determined at the sole and absolute discretion of the Village of Bannockburn.
- G. All stump removals shall require underground utility locations prior to any action.
- H. If a tree is removed or damaged which is not defined within the Tree Permit, it must be replaced or bonded as set forth in the Penalty; Permit Revocation, Suspension and Expiration Section of this Code (§216-22).
- I. Removal of invasive trees and woody plants included in the invasive species list found in the Urban Forest Management Plan requires a Tree Permit (i.e. buckthorn, etc.). These invasive species can quickly colonize an area reducing the health and vitality of non-invasive plants. A list of invasive trees species and woody plants is provided in the Urban Forest Management Plan.

### **§216-9 PLANTING**

- A. As outlined in the Urban Forest Management Plan, the Village of Bannockburn shall plant, and recommend to private landowners, diverse species with the ratio of not more than 15% of any one family, 10% of any one genus or 5% of any one species, with the exception of naturalized areas where species selections are based on the natural species assemblages as defined in the Urban Forest Management Plan. Diverse species composition protects the Village of Bannockburn from catastrophic loss.
- B. All trees planted by the Village of Bannockburn shall be planted in accordance with the Urban Forest Management Plan and pursuant to **§ 260-907** of the Bannockburn Zoning Code.
- C. Trees purchased by the Village of Bannockburn shall meet the specifications required in the Urban Forest Management Plan.
- D. It shall be unlawful to plant any tree, shrub or any alteration in the public right-of-way, on other publicly owned property or Conservation or Preservation Area or any property with a valid covenant or other agreement to conserve or protect the natural features, trees, shrubs and other wildlife enforceable with respect to any area within the Village, without prior written approval from the Village President and the Board of Trustees of Bannockburn and, in the instance of the Conservation or Preservation Area, the language on the recorded plat shall prevail.
- E. It shall be unlawful to plant any tree under utility wires that is anticipated to grow to a height that will interfere with the wires.
- F. The Village of Bannockburn shall provide education and outreach to private landowners on the need for species and age diversity, proper selection and planting practices and how to select species for particular sites.
- G. Any tree or shrub required to be planted under a reforestation plan or as a condition of approval pursuant to this chapter shall conform to the latest edition of American Standard for Nursery Stock as approved by the American Standards Institute, Inc. and currently issued as ANSI Z60.1-2004. Unless otherwise authorized by the Village Forester, the installation of replacement trees under a reforestation plan shall occur only during the Landscape Season. If the installation of replacement trees under a reforestation plan occurs outside a planting season, the two-year warranty period referenced in **§216-18(B)(1)(k)(ii)** shall begin at the beginning of the next planting season.

### **§216-10 TREE REPLACEMENT**

- A. It is recommended, when possible, tree replacement species come from the Preferred Species List as provided in the Urban Forest Management Plan.
- B. Any tree which is required to be removed or which has been damaged shall require a reforestation security to be posted until adequate replacements or remediation can be made. The reforestation security amount is identified in the Penalty; Permit Revocation, Suspension and Expiration Section of this Code (**§216-22**). Determination of extent of damage is at the sole discretion of the Building Commissioner, under consultation from the Village Forester.
- C. All tree replacements shall follow the reforestation plan as required by Section 216-18.B.1.k All tree replacements shall be spaced and sited as required by the Urban Forest Management Plan.
- D. When a tree removal is required as a result of any project, tree replacement shall occur within the Landscape Season. In the event of weather conditions or species specific needs, which prohibit proper replacement of a tree, the Building Commissioner, under consultation from the Village Forester may issue written notice of an



extension of up to 180 days upon written request by the Applicant. If an extension is awarded to the Applicant, the Applicant shall notify the Village of Bannockburn when replacement is complete. If, after the 30 day or awarded 180-day extension, the tree is not replaced or the Applicant has not formally notified the Village of Bannockburn that installation is complete, the reforestation security shall be forfeited and the reforestation security money shall be used to promote the purposes of either planting trees in the Village or performing forestry maintenance activities as described in this Subsection F. Tree removal requirements, associated with a development project, can be found in Section §216-13 of the Code.

- E. All tree replacement plantings shall require an underground utility location prior to planting.
- F. Waiver of reforestation plan as required by Section 216-18.B.1.k through payment of a fee-in-lieu.
  - 1. The Building Commissioner may waive or modify any portion of the reforestation plan requirements if the Building Commissioner determines that replacing trees at the full replacement rate would:
    - a. Result in the unreasonable crowding of trees upon the subject property; or
    - b. Adversely impact the viability of existing trees on the subject property; or
    - c. Not otherwise be consistent with the current standards generally observed by professionals in the forestry, landscaping and landscape architecture professions.
  - 2. Upon a determination by the Building Commissioner that an Applicant has demonstrated one or more of the above, in lieu of providing replacement trees at the required replacement rate, the reforestation plan may be modified to require the applicant to i) replace the trees at the highest practical replacement rate under the circumstances and ii) pay a tree replacement mitigation fee assessed in the Comprehensive Fee Schedule for each one inch caliper of replacement trees that are not being planted on the subject property at the full replacement rate that would otherwise be applicable. All tree replacement mitigation fees collected by the Village shall be used to promote the purposes of either planting trees in the Village or performing forestry maintenance activities as recommended by the Village Forester to eliminate or otherwise control diseased trees, damaged trees, trees that are inappropriate or injurious to other trees in the local ecology or trees that result in overcrowding of trees to the detriment of other healthy trees. Any use of tree replacement mitigation fees for any purpose other than tree replacement or maintenance must first be expressly approved by the Village Board.

#### **§ 216-11 TREE CARE**

- A. Tree care within the Village of Bannockburn, on public lands, shall comply with requirements identified in the Urban Forest Management Plan.
- B. The Village of Bannockburn shall provide education and outreach to private landowners on the need for proper tree care as identified in the Urban Forest Management Plan.
- C. Every property owner shall maintain the trees and shrubs on his or her property and on the parkways abutting his or her property in a safe and healthy manner; shall keep trees and shrubs properly watered, trimmed, pruned, sprayed, treated and preserved so as to avoid disease, insect infestation or other conditions detrimental to such trees and to avoid hazards to persons, property, and other vegetation; and shall remove trees and shrubs on his or her property that are so unsafe, unhealthy, diseased or insect-infested as to constitute a hazard to persons, property or other vegetation.
- D. As further defined in the Urban Forest Management Plan, pruning of oak trees and elm trees should not be performed from March through November to avoid disease transmission.

## **§216-12 SPECIAL RULES FOR CONSERVANCY OR PRESERVATION AREAS**

If a Conservancy or Preservation Area is impacted in any way, the following restitution shall be charged to the offender:

- A. A Tree Permit Reforestation Security: The purpose of the Tree Permit Reforestation Security is to pay for restoration of the Conservancy or Preservation Area damaged directly or indirectly as a result of the impact.
- B. Any maintenance made necessary as a result of impact, including but not limited to the removal of dead trees or preventative measures such as root pruning or crown reduction of existing trees.
- C. Any expenses incurred by the Village of Bannockburn, as a result of the impact in administering or enforcing the provisions of this Code.
- D. The cash bond will be refunded one year after the repairs have been made and all maintenance is completed.

## **§216-13 TREE PRESERVATION AND/OR REMOVAL PLAN FOR REMOVALS, CONSTRUCTION AND/OR DEVELOPMENT**

The tree preservation plan for any construction activity shall provide details to show that the construction activity will be planned and performed in such a manner, to such a degree, and with such equipment and personnel so as to involve the least amount of damage or removal of trees and to comply with the purposes and intent of this chapter, as further defined in the Urban Forest Management Plan.

An applicant seeking a Tree Permit for tree removal and/or planting related to construction and/or development shall submit one PDF copy, one CAD copy (if available) and three hard copies of a legible Tree Preservation Plan drawn to industry acceptable scales ranging between 1" = 20' to 1" = 80' and exhibiting the following information for the entire site (All activities taking place shall be in compliance with the Urban Forest Management Plan):

- 1. Property address,
- 2. Name of Company creating the plan.
- 3. Scale: 1 inch equals 20 feet for small individual property lot, up to 1" = 80' for an entire subdivision.
- 4. Plan Title: Tree Preservation Plan or Tree Preservation and Grading Plan or Tree Planting Plan or Tree Removal Plan
- 5. Date, including Revision Dates
- 6. Property line boundaries and easements,
- 7. Front, side and rear yard setbacks,
- 8. Existing and proposed driveways, walkways, patios and other impervious surfaces or structures,
- 9. Existing and proposed building footprint,
- 10. Existing and proposed grades and drainage ways,
- 11. The locations of all existing and proposed utilities (water, gas, electric, etc.), well heads, etc. should be shown on the plans, as well as any proposed installation methods (trenching, directional boring).
- 12. If required, tree inventory as outlined previously in this Section,
- 13. Location, size, species of all trees within fifteen feet of construction activity envelope on abutting properties and/or rights-of-way,
- 14. All trees to be removed, marked with an "X" or other denotation,
- 15. Tree Inventory Data Sheet: Identification tag number, species, and preserve or remove information for every tree located on the plan, as well as any restorative actions that will be taken for trees to be preserved that will be impacted by construction activities.
- 16. Tree size shall be identified with DBH, and illustrate canopy spread and Critical Root Zone.
- 17. Location of Landscape Bufferyards as required by Section 260-907 of the zoning ordinance.

18. Location of tree preservation fencing. Fencing shall be placed as described in Tree Protection section of the Code (§216-7) and Urban Forest Management Plan
19. Location of silt fencing (required to run parallel to the Tree Preservation requirements (root pruning, plywood access routes, mulching, etc.)),
20. Location of equipment/supply storage and staging area that may negatively affect trees,
21. Required plan notes listed,
22. Identification of uses on adjacent properties, and
23. If grade is to change, existing and proposed elevations with contour lines at one foot intervals.

#### **§216-14 NUISANCE TREES**

A tree which is determined to be a nuisance risk tree is one which is dead or declining and has the potential to damage other trees, people or structures.

- A. It shall be the duty of the property owner on any parcel to promptly remove any trees which pose a risk.
- B. Should the Village of Bannockburn notify the property owner, in writing, of a tree which is a potential risk, following confirmation by the Village Forester, the property owner shall have thirty (30) days to remove the tree. If after thirty days (30) the property owner has not removed the tree, then the Village of Bannockburn shall take action to have the tree removed and shall provide to the property owner a written invoice outlining all costs associated with the removal, including but not limited to staff time, materials and oversight of said removal. Should the property owner not reimburse the Village of Bannockburn within thirty (30) days of issuance of a written invoice, the Village of Bannockburn shall place a lien on the property until all expenses related to the removal and subsequent lien are paid.
- C. Infected, Infested Trees Due to a Pest or Pathogen Are Defined as a Nuisance
  1. Any tree which is in a state of irreparable or untreatable decline due to heavy infestation or disease is included in the definition of a nuisance. Infested or infected trees, which at the direction of the Federal or State Departments of Agriculture are identified to be in quarantine or can potentially infect or infest other trees are defined as a nuisance. This would include but not be limited to Ash (*Fraxinus*) trees infested with emerald ash borer which are not being treated or whose treatment is ineffectual, or Elm trees (*Ulmus*) infected with Dutch elm disease see subsection E. This enforcement, management, regulation, quarantines and other relevant information are included in the Urban Forest Management Plan.
  2. Trees in Decline or Dead Are Defined as a Nuisance
    - a. Any tree or part of a tree which is dead which could potentially fall on another trees, a person or structure is defined as a nuisance.
    - b. It shall be unlawful for any owner of any lot or land in the Village of Bannockburn to permit or maintain on any such lot or land, any tree which is dead, or declining to the state where it may create a potential risk for structures, other trees or people. It shall be the duty of any such owner to promptly cause the removal of any such tree.
- D. Obstructions and other dangerous conditions.
  1. Conditions.
    - a. Every owner or occupant of any house, building, lot or premises in the Village shall keep trees, shrubs, vines and other vegetation located on his or her property trimmed and maintained so as to prevent or remove the following conditions:

- i. Any tree which is dead, dangerous, or likely to fall or that is so unsafe, unhealthy, diseased or insect-infected as to constitute a hazard to persons, property or other vegetation;
    - ii. The obstruction of any street, pedestrian path or designated Village bridle path to any extent which interferes with free passage and clear view along such streets and paths and at any street or driveway intersection;
    - iii. The obstruction of any sewer, drainageway or septic field;
    - iv. The dangerous proximity of any tree or other vegetation to public utility lines; and
    - v. The interference with any existing or proposed public improvement.
  - b. Said conditions are hereby declared to be public nuisances and any tree or other vegetation located on private property which is allowed to grow in violation of the foregoing subsections shall be subject to fine and abatement by the Village as provided in the Penalty; Permit Revocation, Suspension and Expiration Section of this Code.
2. Whenever any person whose duty it is to keep any tree or other vegetation trimmed or cut as provided in the preceding subsection shall fail to do so, the Building Commissioner shall cause written notice to be served upon such person, requiring such person to perform the work within 30 days following mailing or personal delivery of such notice. Such notice shall also notify the owner that, unless the required work is done within such thirty-day period, the Village will proceed with the work, assess the cost thereof against the owner, and impose a lien for such cost on the affected property.
  3. The notice referred to in Subsection **D(2)** above shall be personally served or sent by registered mail to the person to whom was sent the last preceding general tax bill for the property upon which the tree or trees affected is or are located, and a copy of said notice shall be mailed to the owner or occupant of such property.
  4. Within 30 days following delivery or mailing of the notice described in the preceding subsection, the owner of the property shall cause the nuisance to be removed or remedied. If the owner or occupant shall neglect or refuse to trim or maintain the trees or other vegetation as required by the notice, the Village shall promptly cause the removal or remedy of the nuisance by Village employees or contractors. If the Village shall so cause the removal or remedy of any such nuisance, all direct and indirect expenses incurred in connection therewith, including the costs of collection, shall be assessed against the property owner. In the event such expenses are not paid upon billing, the Village Clerk, not later than 60 days after performance of the work, shall file a notice of lien against such property for the amount of such expenses in the manner provided by statute.

E. Dutch Elm Disease.

1. Trees of all species and varieties of elm, Zelkova, and Planera infected with the fungus *Ceratostomella ulmi*, as determined by the Village Forester, are hereby declared to be public nuisances. Trees or parts thereof of elm, Zelkova, or Planera in a dead or dying condition that may serve as breeding places for the European elm bark beetle (*Scolytus multistriatus*) are hereby declared to be public nuisances. It shall be unlawful for any person to keep, maintain, or possess on any property in the Village any tree of the type described in this subsection.

2. Whenever a public nuisance described in the preceding subsection is found to exist, the Building Commissioner shall cause notice of such nuisance to be served upon the owner of the property where the nuisance is found, requiring such person to remove or remedy the same within 30 days following mailing or personal delivery of such notice. Such notice shall also notify the owner that, unless such nuisance is removed or remedied within such thirty-day period, the Village will proceed with the removal or remedy of such nuisance, assess the cost thereof against such property owner, and impose a lien for such cost on the affected property. The notice shall also include a copy of 65 ILCS 5/11-20-12 and shall identify the property, by common description, and the tree or trees affected.
3. The notice referred to in Subsection E(2) above shall be personally served or sent by registered mail to the person to whom was sent the last preceding general tax bill for the property upon which the tree or trees affected is or are located, and a copy of said notice shall be mailed to the owner or occupant of such property.
4. Within 30 days following delivery or mailing of the notice described in the preceding subsection, the owner of the property shall cause the nuisance to be removed or remedied. If the owner or occupant shall neglect or refuse to remove or remedy such nuisance as required by the notice, the Village shall promptly cause the removal or remedy by Village employees or contractors. If the Village shall so cause the removal or remedy of any such nuisance, all direct and indirect expenses incurred therewith, including the cost of collection, shall be assessed against the property owner. In the event such expenses are not paid upon billing, the Village Clerk, not later than 60 days after performance of the work, shall file a notice of lien against said property for the amount of such expenses in the manner provided by statute.

F. At-risk Tree Removal.

1. Any subject property that includes at-risk trees as defined in Section 216-14 of this Code may receive a tree permit for the removal of such at-risk trees to avoid the spread of disease or infestation. Unless a permit is secured under §216-18(B) of this chapter, and notwithstanding any other provision in this chapter to the contrary, a tree permit for the removal of at-risk trees may be issued based upon a reforestation plan that provides for:
  - a. The removal of the at-risk trees over a period of time and the prompt planting of replacement trees pursuant to a schedule approved as part of the reforestation plan that will minimize the effects of deforestation and visual impact to the forested appearance of the subject property and its environs.
  - b. Depending on the caliper of replacement trees, the caliper inches to be replaced may be reduced from the requirements set forth in §216-18 (B)(1)(k) of this chapter.
- G. The Building Commissioner shall, on a regular basis, and the Village Forester shall, at the direction of the Village Board or the Building Commissioner, conduct such inspections and surveys as necessary to determine the existence, nature, and extent of violations of this section and shall report the results of such inspections and surveys to the Village Board.
- H. Notwithstanding anything in this §216-11 to the contrary, all species and varieties of elm, Zelkova, and Planera infected with the fungus *Ceratostomella ulmi* located on Village-owned property, and trees on Village-owned property meeting any of the criteria set forth in Subsection D(1)(a)[i] through [ii] of this section, shall not be deemed a nuisance, but such trees shall be subject to removal at the expense of the Village.

## §216-15 INVASIVE SPECIES CONTROL

### A. Invasive Woody Plants

1. Invasive plants cause ecological disruption to natural ecosystems. The type of impact varies based on the species and the traits of that species. The Urban Forest Management Plan contains the list of Invasive Species. The planting of Invasive Species is not allowed and removal is strongly encouraged.
2. Invasive Species removal. Notwithstanding any provisions in this chapter to the contrary, any person wishing to remove invasive species from subject property within the Village must comply with this Subsection A2.
  - a. The person wishing to remove an invasive species must apply for and obtain a tree permit as required by Subsection D of this section prior to the removal of such invasive species.
  - b. Village shall waive any requirement for a reforestation plan under § 216-18 B(1)(k) and a fee-in-lieu under § 216-10(F) as long as a permit has been applied for before the invasive species have been removed if:
    - i. The invasive species being removed is not within the bufferyard; or
    - ii. The subject property continues to meet the opacity requirements after the removal of the invasive species as provided for in a Landscape Plan that is reviewed and approved with the Tree Permit or confirmed by the Village Forester following review of the existing opacity on the property.
  - c. If the invasive species being removed is within the bufferyard and the subject property will no longer meet the opacity requirements upon the removal of such invasive species, the owner of the subject property shall be required to:
    - i. Submit for Village approval a reforestation plan identifying plantings that will bring the subject property into compliance with the opacity requirements; and
    - ii. Plant within two years of the date of the issuance of the tree permit (the "fallow period") plantings in accordance with the approved reforestation plan that will be maintained and cause the subject property to comply with the opacity requirements within five years.
  - d. To ensure timely implementation of the reforestation plan after the fallow period, the Village shall record against the title of the subject property a notice (the "reforestation notice") that:
    - i. Sets forth the property owner's obligation to install the plantings in conformance with the approved reforestation plan and opacity requirements;
    - ii. States that failure to comply with the reforestation plan will subject the then-owner of the subject property to fines; and
    - iii. States that a release of the reforestation notice will be filed upon the completion of plantings under the reforestation plan.
  - e. If the fallow period expires and the subject property is not in compliance with the reforestation plan, the reforestation notice will remain recorded against the subject property, and the then-owner of the subject property will be subject to the applicable fine provisions of the Village ordinances.
  - f. If the plantings required by the reforestation plan have been successfully completed on the subject property and approved by the Village within the fallow period, the Village will record a release of the reforestation notice with respect to the subject property.
  - g. All recording expenses arising under this Subsection A(2) shall be at the expense of the person seeking removal of invasive species.

3. The Village of Bannockburn shall develop and implement an outreach plan to educate property owners of the potential impacts and remediation strategies, including a suggested planting list of alternative species to assist property owners in dealing with the problem. (See Urban Forest Management Plan).

B. Invasive Diseases And Insects

1. Impacts to Trees

Invasive diseases and insects can create significant stress to trees and in some instances kill trees. The Village of Bannockburn shall include in the Urban Forest Management Plan a list of Invasive Diseases and Insects which have been identified by State and Federal Departments of Agriculture as significant threats to trees.

2. Invasive Species Management Plan

The Village of Bannockburn shall develop an action strategy to deal with any of these diseases or insects and take action to remove the pest, forestall impacts to the trees through treatments or other means or develop a removal and replacement strategy for remediation of the problem. This strategy shall be contained in the Urban Forest Management Plan.

3. Private Property Owner Outreach

The Village of Bannockburn shall develop and implement an outreach plan to educate property owners of the potential impacts and remediation strategies to help property tree owners in dealing with the problem.

**§216-16 TREE COMMISSION**

A. Establishment

The Village of Bannockburn hereby establishes a Tree Commission which shall be a recommending body to provide assistance, direction and expertise to the Village of Bannockburn regarding the preservation, planting, management and protection of trees. The Tree Commission shall utilize the urban forest management plan for guidance on urban forestry issues.

B. Membership

The Village Architectural Review Commission shall serve as the Bannockburn Tree Commission. The Tree Commission members shall serve without compensation.

C. Powers and Duties

The Tree Board shall have the following powers and duties subject to the approval of the Village of Bannockburn Board:

1. To provide guidance on the preservation, care, management and protection of trees within the Village of Bannockburn in accordance with Urban Forest Management Plan.
2. To prepare and recommend to the Village of Bannockburn Board from time to time recommendations for specific improvements of the preservation, care, management and protection of trees within the Village of Bannockburn.
3. To recommend rules and regulations to the Village of Bannockburn Board for budget, plans, projects and schedules regarding the preservation, care, management and protection of trees within the Village of Bannockburn.
4. To review the Village of Bannockburn Urban Forest Management Plan and provide recommendations for improvements to the Village of Bannockburn Board.
5. To work collaboratively with Village of Bannockburn forestry staff to support the Village of Bannockburn ordinances and Urban Forest Management Plan.
6. Manage and administer all plans, programs, projects and tasks delegated to it by the Village of Bannockburn Board as authorized and directed by the Village of Bannockburn Board.

7. Annually evaluate performance under this chapter.
8. Advise the Village Board on issues relevant to this chapter.
9. Provide leadership in the development of understanding of the objectives and methods of the Urban Forest Management Plan.
10. Assist the Building Commissioner in the development and maintenance of technical specifications and guidelines to aid in the administration and enforcement of this chapter.
11. Undertake such other duties or responsibilities as the Board of Trustees may find appropriate to advance the purposes for which this chapter is adopted.
12. Work with Staff and the Building Commissioner to create private property outreach documentation as described within this ordinance.

**§216-17 TREE PERMIT PROCEDURE**

**A. Applicant Submission**

An applicant for tree removal on public or private property shall fill out a Tree Removal Request online, or in person, and the Village of Bannockburn Village Forester shall make an inspection and render a determination as to whether mitigation of the proposed tree removal will be required.

If a removal is significant, in conjunction with any type of development, then a full tree preservation plan and inventory for the area to be impacted will be required. The Village of Bannockburn shall review the plan for compliance with the code requirements herein described. This review shall include an inspection of the site and referral of the application for recommendation to other appropriate administrative departments or agencies. The Village of Bannockburn shall render a decision on the application within ten working days of its receipt of a properly completed application; however, significantly larger projects may require additional time.

**§216-18 PERMIT ISSUANCE AND REQUIREMENTS**

**A. Requirements**

No person shall cause a use change without first having been issued a valid tree permit for all use changes to be performed or to be caused on the subject property. No person shall be entitled to any permit for any activity constituting a use change unless a valid tree permit for such activity shall have first been issued in accordance with this chapter. No person shall be entitled to any tree permit unless the subject property, upon the issuance of the tree permit, is in strict compliance with the terms and provisions of this chapter and the terms and provisions of all other applicable laws, ordinances, rules and regulations of the Village and of all other governments and agencies having jurisdiction.

**B. Application**

1. Any person desiring a tree permit shall submit a written application setting forth the following information:
  - a. Name and address of applicant.
  - b. Legal relationship of the applicant to the subject property.
  - c. Written authorization of the owner of the subject property, if applicant is not the owner.
  - d. Location of the subject property, including street address or legal description.
  - e. Size of the subject property.
  - f. Any recorded plat, deed or covenant that indicates that all or part of the subject property is located within a conservancy area.



- g. Number, size (DBH), condition and species of any and all trees which will be removed or destroyed in the course of the proposed use change.
- h. Number, size (DBH), condition and species of any and all trees which might be damaged or destroyed by the proposed use change or any activity taken in connection therewith, and a tree preservation plan setting forth the steps to be taken to prevent such damage or destruction and any necessary remedial action. A tree preservation plan provided in connection with construction activity shall incorporate at least the techniques and safeguards set forth in § 216-13, or shall explain in detail the alternative techniques and safeguards to be employed and the justifications therefor.
- i. Location, dimensions and current and proposed use of existing and proposed buildings, structures, paved areas, utility lines and utility and access easements on and adjacent to the subject property.
- j. Rough slope of the subject property and whether there have ever been any drainage or stormwater run-off problems in connection with the subject property.
- k. A reforestation plan to which the applicant shall agree in writing to implement and complete as a condition of the issuance of the tree permit.
  - i. The reforestation plan shall provide for the replacement and replanting of trees of sufficient number and appropriate species such that i) the sum of the DBH of all trees that will be destroyed in effecting the proposed use change and ii) the sum of the DBH of all trees that were destroyed by any prior illegal or unauthorized use change for which a tree permit was required but not issued will be equivalent to the sum of the caliper of the trees that are to be planted as follows:
    - 1. For every removed or destroyed, or to be removed or destroyed, tree of a species included within the Village of Bannockburn Preferred Tree List the replacement ratio of DBH removed to replaced shall be 1:1 and the replacement trees must be of a species included within the Village of Bannockburn Preferred Tree List.
    - 2. For every removed or destroyed, or to be removed or destroyed, tree of a species NOT included within the Village of Bannockburn Preferred Tree List or on the Invasive Species List the replacement ratio of DBH removed to replaced shall be 2:1 and the replacement trees must be of a species included within the Village of Bannockburn Preferred Tree List.
    - 3. Reforestation plans should prioritize species included within the Village of Bannockburn Preferred Tree List as replacement trees. If an applicant is to propose the utilization of tree selections included within the Village of Bannockburn Undesirable Tree List, the limits of usage shall align with the percentages and overall totals as defined in the Urban Forest Management Plan.
    - 4. A reforestation plan shall provide for diversity among the replacement trees. For any reforestation plan requiring more than five replacement trees to be installed, the replacement trees must reflect a diversity that aligns with the requirements included in section 216-9, article A above, unless approved by the Village Forester.
  - ii. Every reforestation plan shall include a table or chart setting forth calculations to demonstrate that the reforestation plan satisfies the foregoing requirements, including the compliance with the preferred tree list of trees, mitigation requirements, and species diversity. Every reforestation plan shall also include a schedule for the planting of the replacement trees, as well as an agreement to provide for the care and maintenance of the newly planted replacement trees for a period of two years after installation, which care and maintenance shall in all respects conform to the current standards generally observed by professionals in the forestry and

landscape architectural professions. Every reforestation plan shall be binding upon successors and assigns of the subject property.

1. Such other data or information as the Building Commissioner shall deem necessary to permit full and fair consideration of the application.
2. The data required by Subsection **B(1)(h)** through **(l)** may, for purposes of an application, be submitted in such form, detail and degree of accuracy as may be reasonably feasible without undertaking professional studies and surveys. Every application shall be accompanied by the plan review fee and the reforestation security required by § **216-19** of this chapter.

C. Site plan.

If the Building Commissioner, based on the recommendation of the Village Forester, determines that the application does not provide sufficient information to enable the Building Commissioner to fulfill his or her duties under this chapter, he or she may require the submission of a site plan of the subject property or of any portion thereof, prepared by qualified professionals, on a topographic map, which shall graphically and accurately show:

1. All data and information required by Subsection **B(1)(e)** through **(k)** above.
2. Existing and proposed contours.
3. Critical spot elevations.
4. Building elevations.
5. Existing and proposed shrubs and landscaping other than trees.
6. A legend identifying, by number, all existing trees that are on the subject property and all proposed trees to be planted on the subject property pursuant to the reforestation plan. The identifying number shall reference the individual tree's DBH or caliper, species, general condition and proposed disposition.
7. Detailed specifications for protection of trees during development of the property.
8. Such other data or information as the Building Commissioner shall deem necessary to permit full and fair consideration of the application.

D. Consultation.

Upon submission of an application, an applicant for a tree permit may consult with the Building Commissioner and/or the Village Forester to determine whether the application as proposed would comply with this chapter and with the current standards generally observed by professionals in the forestry and landscape architectural professions. However, in no case shall the results of such consultation be deemed either an approval of any application or a binding determination that no tree permit is required. Such results shall in no case entitle any applicant to the issuance of a tree permit. The applicant shall be responsible for payment of any costs incurred in providing such consultation services.

E. Action on application.

Upon receipt of either the application or the site plan, the Building Commissioner shall direct the Village Forester to visit and inspect the subject property as well as contiguous and adjoining lands and to make recommendations concerning the application. If the Building Commissioner shall, based on the recommendation of the Village Forester, determine that: a) the proposed use change will destroy or endanger

no more trees than are reasonably necessary to achieve the applicant's objectives, b) the application, including the tree preservation plan, reforestation plan, the site plan, the plan review fee and the reforestation security, each satisfy the requirements of this chapter, and c) the use change will result in no undue adverse effect upon the public welfare as expressed in § 216-2 of this chapter, then the application shall be approved and the tree permit shall be issued; otherwise the application shall be denied or, alternately, it may be approved subject to such conditions as the Building Commissioner shall determine to be necessary to protect the public welfare, achieve the purposes of this chapter, and prevent the undue destruction of trees. Notwithstanding anything to the contrary in this Subsection E, no tree permit shall be issued in connection with an application for any subject property that has had one or more reforestation plans during a five-year period involving more than 50 trees unless and until such application and reforestation plan has been reviewed and approved by the Village Board.

F. Waiver of reforestation plan through payment of a fee-in-lieu as described in section § 21610(F).

1. The Building Commissioner may waive or modify any portion of the reforestation plan requirements if the Building Commissioner determines that replacing trees at the full replacement rate would:
  - a. Result in the unreasonable crowding of trees upon the subject property; or
  - b. Adversely impact the viability of existing trees on the subject property; or
  - c. Not otherwise be consistent with the current standards generally observed by professionals in the forestry and landscape architectural professions.
2. Upon a determination by the Building Commissioner that an applicant has demonstrated one or more of the above, in lieu of providing replacement trees at the required replacement rate, the reforestation plan may be modified to require the applicant to i) replace the trees at the highest practical replacement rate under the circumstances and ii) pay a tree replacement mitigation fee assessed based upon the Comprehensive Fee Schedule for each one inch caliper of replacement trees that are not being planted on the subject property at the full replacement rate that would otherwise be applicable. All tree replacement mitigation fees collected by the Village shall be used to promote the purposes of either planting trees in the Village or performing forestry maintenance activities as recommended by the Village Forester to eliminate or otherwise control diseased trees, damaged trees, trees that are inappropriate or injurious to other trees in the local ecology, or trees that result in overcrowding of trees to the detriment of other healthy trees. Any use of tree replacement mitigation fees for any purpose other than tree replacement must first be expressly approved by the Village Board.

G. Waiver or modification through zoning or subdivision approval. Where a zoning or subdivision approval is so conditioned as to fully accomplish the goals and purposes of this chapter, the Board of Trustees may waive or modify the requirements of this Section §216-18. Such waiver or modification may be revoked at any time and shall be revoked in the event that any condition imposed pursuant to such approval is violated and such violation persists after reasonable notice to the owner of the property of such violation.

H. Issuance

The Village of Bannockburn shall issue a permit upon approval of an application and payment of a required fee and reforestation security.

I. Time Limitation

1. A permit shall expire and become null and void if work authorized is not commenced within 180 days from the date of the permit or if such work when commenced is suspended or abandoned at any time for a period of one year.

2. If work has commenced and the permit becomes null and void or expires because of a lack of progress or abandonment, as confirmed by the Building Commissioner, a new Tree Permit for the proposed tree removal, planting activity shall be obtained before proceeding with further work.

#### **§216.-9 FEES AND REFORESTATION SECURITY**

##### **A. Plan review fee.**

Every application submitted pursuant to § 216-18(B)(1) of this chapter shall be accompanied by a nonrefundable plan review fee for ordinary review of the application and a nonrefundable application fee in amounts set from time to time by the Village Board in accordance with the Comprehensive Fee Schedule. Notwithstanding the requirements of § 216-18(E), where the Building Commissioner determines that the use change is of such a limited and minor nature that it does not warrant referral to the Village Forester or the tree being reviewed is dead and/or hazardous, any plan review fee submitted with the application shall be refunded. In addition, where the nature of the application requires additional professional review by the Village Forester, the Village Engineer, the Village Attorney or another consultant, an additional nonrefundable plan review fee equal to the actual cost to the Village of securing such review shall be charged to and paid by the applicant plus additional fees included in the Comprehensive Fee Schedule.

##### **B. Reforestation Security**

1. In addition to the aforesaid plan review fee, every application submitted pursuant to § 216-18(B) of this chapter shall be accompanied by a reforestation security. The reforestation security shall consist of either a cash deposit to be held in escrow by the Village, an irrevocable letter of credit issued by a lender authorized to issue such letter by any state or by the United States, or such other form of security approved by the Building Commissioner, who may consult with the Village Forester about the full implementation of the reforestation plan, as determined by the Building Commissioner. The reforestation security shall be held for the purpose of assuring that the replacement tree(s) are purchased and planted.
2. The amount of the reforestation security shall be determined by the Building Commissioner, who may consult with the Village Engineer or the Village Forester, and shall be equal to the total estimated cost of strictly complying with and fully implementing the reforestation plan, with an allowance for inflation and/or interest if any is applicable. In furtherance of this provision, the owner of the subject property shall cause a cost estimate or signed contractor proposal to accompany the reforestation plan as a reference to the Village for determining the appropriate reforestation security.
3. If at any time the Building Commissioner shall determine that the applicant has neglected or refused to comply with or implement the reforestation plan, the Building Commissioner is authorized to perform or to cause to be performed such work as he or she shall deem necessary to ensure strict compliance with and full implementation of the reforestation plan and to deduct, liquidate, or apply an amount equivalent to the actual costs of such work from the reforestation security. Upon completion of the reforestation plan, the reforestation security, or any remainder thereof, shall be returned or released to the applicant.
4. If it is determined that practices which violate any portion of the Village of Bannockburn Code have resulted in tree damage, then the Village of Bannockburn may require that a reforestation security, as determined in accordance with Reforestation Security Section B, shall be submitted at the time the violation occurs. The reforestation security shall be held for the purpose of assuring that all remedial actions to minimize tree damage are taken, and/or for the purpose of assuring tree replacement should any damaged tree die or show noticeable signs of decline as determined by a certified arborist. If it is determined that residual damage may not be apparent, then the reforestation security may be held for a period of 60 months or five years. At the end of which time, if the tree survives and is in good health, as determined by a certified arborist the reforestation security shall be returned. If the tree does not survive, and was not further impacted by an act of God, or is in poor health then replacement shall be required as identified above and according to the Comprehensive Fee Section of the Code.

5. If a reforestation security is posted for a tree and the property owner wishes to transfer the property, then the reforestation security shall be transferred with the property. If the reforestation security is returned, then it shall be returned to the existing property owner.

#### **§216-20 FINAL INSPECTION**

Final approval shall be issued when all relocation, replacement or remediation of trees is completed and a final inspection has been conducted by the Village of Bannockburn. Should the Village of Bannockburn determine that the season is inappropriate for planting then relocation or replacement shall be deferred until the next planting season. All reforestation security, bonds and fees will remain in the custody of the Village of Bannockburn until final inspection and approval has been provided in writing.

#### **§216-21 COMPLIANCE**

The Village of Bannockburn shall retain jurisdiction to ensure compliance with this Section 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 of Bannockburn unless the applicant has paid all required fees and fines in accordance with the Comprehensive Fee Schedule and Village Code.

#### **§216-22 PENALTY; PERMIT REVOCATION, SUSPENSION AND EXPIRATION**

- A. Any person who neglects or refuses to comply with or assists in the violation of any of the provisions of this chapter, or any order, permit, or notice issued pursuant to it, shall be fined not less than \$25 nor more than \$750 any additional cost as prescribed in the Comprehensive Fee Schedule. Each day such violation continues shall constitute a separate offense. Each tree cut down, destroyed, damaged, removed or moved shall constitute a separate offense. In addition to these penalties, if a tree is removed in violation of this Section, all replacement requirements of this Section shall be applied.
- B. Any permit issued under this chapter may be revoked or suspended if the permit holder violates the terms of the permit or any other provision of this chapter. Unless otherwise approved as part of an implementation schedule included in the reforestation plan, each tree permit shall expire automatically if the use change authorized by the permit is not commenced within 180 days after its issuance, or is not completed within one year after its issuance. The Building Commissioner may, upon application of the permit holder, grant reasonable extensions of time for commencement or completion of such use change.

#### **§216-23 ENFORCEMENT**

- A. **Enforcement Right of Entry of Village of Bannockburn Officers**  
To carry out the purposes of this Section and to implement its enforcement, the Village of Bannockburn is authorized and empowered, upon 24 hours' notice, to enter upon any lot or parcel of land in the Village of Bannockburn at all reasonable hours to inspect any tree or wood and to remove specimens from any such tree to determine their condition. It shall be unlawful for any person to interfere with a Village of Bannockburn Officer carrying out the duties authorized in this Section.
- B. **Duty of Property Owner to Abate Nuisance or Potential Risk**

If it is determined that there exists a public nuisance or risk as declared in this Section, the Village of Bannockburn shall serve or cause to be served upon the owner of the lot or parcel of land on which such nuisance or risk is located, a written notice identifying the nuisance or risk and requiring the owner to comply with the provisions of this Section. If the person upon whom such notice is served fails, neglects or refuses to remove and dispose of the tree or dead wood within thirty days after service of such notice, the Village of Bannockburn may proceed to remove and dispose of such tree or dead wood and the costs shall be paid by the owner to the Village of Bannockburn.

C. Service of Notice to Property Owner

Service of notice provided for in this Section shall be affected by personal service or by certified mail addressed to the occupant or to the person to whom, and at the address, to which the tax bill was sent for the general taxes for the last preceding year on the lot or parcel on which the nuisance is located.

D. Village of Bannockburn Abatement and Assessment of Costs

Any costs incurred by the Village of Bannockburn in the abatement of a public nuisance or hazard as declared in this Section shall be assessed against the record owner of the land involved and the Village of Bannockburn shall place a lien upon such property for those costs in the manner provided by law.

**§216-24 EXCEPTIONS AND EMERGENGIES**

If because of emergency weather or other casualty conditions, but not limited to, tornadoes, windstorms, floods, freezes or other natural disasters, a tree is endangering health, safety or property and requires immediate removal, the requirements of this chapter may be waived by the Building Commissioner, the Village Engineer, the Village Forester or the Village President.

**§216-25 APPEALS FOR VARIANCE**

Appeals from any decision of or notice issued by the Building Commissioner pursuant to this chapter may be taken by the applicant or any other person adversely affected by such decision. Such appeals shall be taken to the Board of Trustees by filing a written notice of appeal with the Village Clerk within 10 days following the decision of the Building Commissioner or the date of the notice. The Board of Trustees shall review the application and any other evidence or documents, and may hear and receive new evidence, and shall render a decision on such appeal. The filing of an appeal from a § 216-14 notice shall stay enforcement thereof unless the Village Forester shall make a written finding that such stay would present an undue threat to persons or property in the Village.

**§216-26 CIVIL REMEDIES**

In addition to any other remedies provided by this Section the Village of Bannockburn shall have the following judicial remedies available for violations of this Section or any permit condition promulgated under this Section.

- A. The Village of Bannockburn may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury caused by the removal or damage of trees in contravention of the terms of this Section.
- B. The Village of Bannockburn may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Section to enjoin any violation, and to seek injunctive relief to prevent irreparable injury to the trees or properties encompassed by the terms of this Section.

**§216-27 PRIOR PERMITS AND PROVISIONS.**

Except with respect to tree permit applications submitted before TBD the Bannockburn Tree Ordinance as approved by Village of Bannockburn Ordinance No. 2013-22 (the "Prior Tree Ordinance") is hereby repealed in its entirety and replaced by this chapter, including Appendix A attached hereto. Any tree permit application submitted before May 13, 2024, shall be subject to the Prior Tree Ordinance.

**§216-28 APPLICABILITY.**

This chapter shall apply to all tree permit applications which have been submitted after May 13, 2024.