
**THE VILLAGE OF HOMER GLEN
WILL COUNTY, ILLINOIS**

**ORDINANCE
NUMBER 26-016**

**AN ORDINANCE AMENDING THE PROVISIONS OF
CHAPTER 138, ARTICLE I, SECTION 5 ENVIRONMENTAL
CONSERVATION AND TREE PRESERVATION OF THE
CODE OF THE VILLAGE OF HOMER GLEN, WILL
COUNTY, ILLINOIS**

**CHRISTINA NEITZKE-TROIKE, Village President
CANDICE BIELSKI, Village Clerk**

**Village Trustees
BART HOLZHAUSER
MIKE LEPORE
CURT MASON
NICHOLAS MULLER
ROSE REYNDERS
ROBERT SCHALLER**

AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER 138, ARTICLE I, SECTION 5 ENVIRONMENTAL CONSERVATION AND TREE PRESERVATION OF THE CODE OF THE VILLAGE OF HOMER GLEN, WILL COUNTY, ILLINOIS

WHEREAS, the Village of Homer Glen, Will County, Illinois (the “*Village*”) is a home rule municipality pursuant to Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs (the “*Home Rule Powers*”); and,

WHEREAS, the Village Board recognizes that trees are unique, intrinsically significant and valuable assets in and to the Village of Homer Glen; and,

WHEREAS, the purpose of this Public Tree Preservation Ordinance is to protect and preserve the urban forest canopy on property owned or operated by the Village of Homer Glen in order to enhance the quality of life for residents and visitors; and,

WHEREAS, the Village Board recognizes that trees located on public property are an integral part of the infrastructure of the Village and as such should be preserved, protected, and cared for as any other critical Village infrastructure.; and,

WHEREAS, the Village President and Village Board of Trustees believe that it is in the best interests of the Village to amend the Code of the Village of Homer Glen as set forth in Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the Village President and Village Board of Trustees of the Village of Homer Glen, Will County, Illinois, by and through its Home Rule Powers, as follows:

Section 1. Incorporation of Recitals. The foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein as Exhibit A.

Section 2. Amendments to the Village Code. CHAPTER 138, ARTICLE I, SECTION 5 of the Code of the Village of Homer Glen is hereby amended as set forth in Exhibit A, where additions to the text are indicated in red font, and deletions are indicated by strike throughs.

Section 3. Severability. The various portions of this Ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this Ordinance shall not affect the validity of any other portions of this Ordinance, which shall be enforced to the fullest extent possible.

Section 4. Repealer. All policies, Ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Adopted this 11th day of March, 2026 pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Holzhauser	X			
Lepore	X			
Mason	X			
Muller	X			
Reynders	X			
Schaller	X			
Neitzke-Troiike (Village President)				
TOTAL	6			

APPROVED by the Village President on March 11, 2026



Christina Neitzke-Troiike
Village President

ATTEST:


Candice Bielski
Village Clerk

AMENDMENTS TO CHAPTER 138, ARTICLE I, SECTION 5 -“Exhibit A”

See attached

AMENDMENTS TO CHAPTER 138, ARTICLE I, SECTION 5 -“Exhibit A”

§ 138-5. Environmental conservation and tree preservation.

A. Natural preservation areas.

(1) Findings and purpose.

- (a) The abundance and diversity of native wildflower and other native plant species (including but not limited to many threatened and endangered species which have been placed on or listed in the Checklist of Endangered and Threatened Animals and Plants of Illinois as promulgated by the Illinois Endangered Species Protection Board) within the Village of Homer Glen has come to be widely recognized throughout the Northern Illinois region, and contributes greatly to the quality of life within the Village.
- (b) The preservation of such native wildflower and other native plant species within the Village of Homer Glen will assist in preserving that quality of life, thereby assisting in the furtherance of the goals for the incorporation of the Village and the values set forth in the Mission Statement of the Village.
- (c) Homer Township has established and is carrying out a program to monitor and protect the aforementioned types of plant life, and the establishment of such a program within the Village of Homer Glen would facilitate the success of and otherwise strengthen and protect such program, and would similarly further the adoption of an intergovernmental agreement between the Village and Homer Township with respect to cooperative efforts to monitor, protect and preserve such native wildflower and other native plant species.
- (d) In connection with the promotion of the foregoing aims, it shall be and remain the policy of the Village of Homer Glen to maintain respect for private property rights and to wholly refrain from any activities which are or might constitute takings or the exercise of the right of eminent domain, as set forth in the Constitution of the United States, the 1970 Constitution of the State of Illinois, and the Illinois Compiled Statutes.
- (e) As a means of balancing the potentially competing interests and desires to preserve native wildflower and other plant species within the Village of Homer Glen while at the same time avoiding any infringement on the rights of private property owners that is or might constitute a taking or the exercise of the right of eminent domain, as set forth in the Constitution of the United States, the 1970 Constitution of the State of Illinois, and the Illinois Compiled Statutes, the corporate authorities of the Village of Homer Glen have determined that it is in the best interests of the health, safety, morals and welfare of the Village of Homer Glen and its residents to designate certain public vehicular rights-of-way within and under the jurisdiction of the Village of Homer Glen as natural preservation areas and to provide for the protection thereof and the maintenance of the quality and variety of native wildflower and plant species found therein by regulating the mowing, cutting and maintenance of such areas, and to work toward entering into intergovernmental agreements within other governmental entities having jurisdiction of public vehicular rights-of-way within the Village of Homer Glen to further the creation

and establishment of comparable forms of protection for similarly situated portions of rights-of-way under the jurisdiction of such other governmental entities.

- (2) Designation of areas. Due to their existence in a substantially original or primeval state, or due to the predominance therein of native wildflower or plant species, and the need to maintain and preserve such characteristics for the public purposes of future enjoyment, education and research, as well as for the enrichment of the present quality of life within the Village of Homer Glen, all publicly dedicated or prescriptively acquired vehicular rights-of-way within the following described areas shall be and hereby are designated as "natural preservation areas" of the Village of Homer Glen:
 - (a) South side of 147th Street, between Creme Road and Lemont Road.
 - (b) East and west sides of Lemont Road, between 141st Street and 143rd Street.
 - (c) North side of 151st Street, east of Creme Road, and west of the limits of the property that is the site of the Homer Township Administration Building.
 - (d) South side of 151st Street, west of Parker Road, but east of the limits of the property contained within what is commonly referred to as the "Woodbine Subdivision."
 - (e) South side of 151st Street, west of Cedar Road and east of Gougar Road.
- (3) Protections of areas. Except where necessary to prevent the existence of any hazard to safe vehicular travel, the Village shall take such steps as are necessary, including but not limited to the placement of appropriate signage, stickers or placards (or otherwise ensure that such steps are taken pursuant to any applicable intergovernmental agreements), to cause those responsible for maintaining the roads and streets within the Village road and street system as defined by 605 ILCS 5/2-104 to refrain from cutting, mowing or otherwise disturbing native wildflowers or plants within the limits of any designated natural preservation area of the Village, and all such natural preservation areas shall be exempt from the application of any presently existing or future ordinances of the Village pertaining to landscaping, or the cutting of plants, grasses, weeds and the like. No person or entity shall cut, mow or otherwise disturb any native wildflowers or plants within the limits of any designated natural preservation area without first having obtained the written permission of the Village Manager. Such permission shall be granted only after the Village Manager consults with a person or persons having recognized expertise in the recognition, management and preservation of native wildflowers and other native plants as are found within Village natural preservation areas, and only if the request for such permission demonstrates that the activity proposed within the given natural preservation area is the least intrusive means reasonably possible under the circumstances of obtaining access to a parcel of property or of conducting otherwise lawful activities on the property. Furthermore, by means of intergovernmental agreements with the appropriate jurisdictional or governmental authorities, informal cooperative efforts or otherwise, the Village shall use its best efforts to promote the protection and preservation of native wildflowers and plants in dedicated or prescriptive vehicular rights-of-way within the Village but which are not part of the Village road and street system, and in dedicated or prescriptive vehicular

rights-of-way which are outside of but adjacent to or in close proximity to the corporate limits of the Village. Additionally, pursuant to 525 ILCS 37/5, Illinois Prescribed Burning Act, the Village, in keeping with its purpose to preserve the abundance, diversity, and ecological health of its natural preservation areas, shall allow for prescribed burns in accordance with the requirements set forth in Section 37/5 of the Prescribed Burning Act.

- (4) Identification of areas. The Village Manager shall further be authorized to take such steps as he or she may deem necessary and desirable to cause the appropriate recognition of all natural preservation areas designated hereunder, including the placement of appropriate signs, stickers or placards therein, provided that all such steps shall be taken with due regard for the preservation of safe vehicular travel on and along any public road or street adjacent to or along any natural preservation area. Such signs, stickers or placards shall contain text reading substantially as follows: "Village of Homer Glen — Natural Preservation Area. Contains native wildflower and prairie plant species. Destruction, cutting, mowing or disturbing of plant life in a natural preservation area is prohibited by ordinance. WARNING: Any person or entity found to have destroyed, cut, mowed or disturbed plant life in a natural preservation area or to have altered, defaced, removed or tampered with any sign, sticker or placard indicating or designating a natural preservation area shall, upon conviction, be fined in an amount of up to \$1,000." No person or entity shall remove, alter, deface or otherwise tamper with any such signs, stickers or placards.
- (5) Intergovernmental cooperation. The Village President or his or her designee shall, at his or her discretion, be permitted to negotiate intergovernmental agreements with other governmental entities having jurisdiction over roads and streets within the Village of Homer Glen, on such terms and conditions as he or she may deem desirable, so as to cause public vehicular rights-of-way under the jurisdiction of such other governmental entities containing native wildflowers or plants of comparable interest, diversity, quality and predominance as those Village of Homer Glen rights-of-way hereinabove designated as natural preservation areas to be similarly designated and recognized by, and to receive similar protection from, such other governmental entities.
- (6) Annual review. Not less frequently than annually, the Village Board of Trustees of the Village of Homer Glen shall review the provisions of this section and shall consider such amendments as may be necessary thereto from time to time to designate other and further natural preservation areas within any publicly dedicated or prescriptively acquired vehicular rights-of-way within the Village of Homer Glen.
- (7) Penalty. Upon conviction of any violation of the provisions of this section, any person or entity who or which violates any provision of this section shall be fined in an amount not to exceed \$1,000 for each violation.

B. **Private** Tree preservation.

- (1) Findings and purpose.
 - (a) The Village Board recognizes that trees are unique, intrinsically significant and valuable assets in and to the Village of Homer Glen.

- (b) The Village has determined that trees are unique, intrinsically significant and valuable assets. Due to their size, species, historic association and ecology, they contribute significantly to the health and general welfare of the citizens of a community.
 - (c) While allowing for reasonable improvement of land within the Village, it is the policy of the Village to enhance the tree population and to maintain and protect, to the greatest extent feasible, existing trees within the Village.
 - (d) The planting of additional trees and the preservation of existing trees in the Village provides the following benefits to the Village and its citizens:
 - [1] Trees enhance the unique physical, historical and aesthetic character of the Village.
 - [2] Trees aid in controlling stormwater runoff, stabilizing soil by preventing erosion and sedimentation and replenishing groundwater supplies.
 - [3] Trees enhance air quality by removing carbon dioxide, generating oxygen and filtering air pollutants.
 - [4] Trees reduce noise through buffering and screening.
 - [5] Trees reduce energy consumption by providing shade and a windbreak effect.
 - [6] Trees enhance the habitat and food source for birds and other wildlife, which in turn control insect populations and maintain the balance of natural ecosystems.
 - (e) Trees enhance property values and create a desirable residential and commercial The Village Board recognizes that a certain amount of trees will be lost as an inevitable consequence of development within the Village.
 - (f) The Village Board has determined it to be in the best interest of the Village to protect and enhance the existing tree population to the greatest extent feasible and to replace trees which are lost due to development activities.
 - (g) The Village Board has determined that the adoption and implementation of a tree preservation ordinance will recognize and allow a property owner to develop his or her property in a reasonable manner while protecting the various benefits to the community which are provided through the protection and maintenance of trees within the Village, including, but not limited to, the prevention of soil erosion and sedimentation, improved air quality, reduced noise pollution, energy conservation through natural insulation and shading, enhanced property values, and the preservation and maintenance of the unique physical, historical and aesthetic character of the Village.
- (2) Scope.
- (a) The Village strongly encourages the preservation of trees on all properties within the Village.

- (b) The provisions of this subsection shall apply to the following properties:
 - [1] Any property being developed which involves a preliminary plat application submitted after March 31, 2006;
 - [2] Any property being developed pursuant to an application for lot division submitted after March 31, 2006; and
 - [3] Any parcel or parcels of land of five acres or more in size on which the owner or his or her agent removes or otherwise disturbs significant trees or protected trees in violation of the provisions of § 138-5B(3), Tree removal/disturbance threshold, or in excess of the removal and disturbance thresholds set forth in § 138-5B(3), Tree removal/disturbance threshold, hereof within 24 months prior to the date on which such owner or other applicant files a preliminary plat application or an application for lot division to develop the parcel or parcels. The owner shall be required to comply with the reforestation and restitution provisions of this subsection as if an application identified in Subsections B(2)(b)[1] or [2] above had been submitted to the Village at the time such action was taken.
 - (c) The provisions of this subsection shall not apply to trees located on a parcel on which a tree farm, nursery, or greenhouse is operated, provided such exemption shall only apply to trees which are considered inventory for said operation and held out for sale in the regular course of business for said operation.
- (3) Tree removal/disturbance threshold.
- (a) No person shall, prior to the issuance of a grading permit and an erosion control permit, conduct clear- or wholesale tree cutting activities on any property within the Village. A violation of this provision shall constitute sufficient grounds for the Village to refuse to grant a grading permit, erosion control permit or other development permit.
 - (b) No person causing or performing development in residential zoning districts shall remove or disturb more than 50% of the total inches in diameter of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
 - (c) No person causing or performing development in nonresidential zoning districts shall remove or disturb more than 75% of the total inches in diameter of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
 - (d) No person shall remove or disturb any protected tree unless:
 - [1] Such tree is located within the area of the property on which there is proposed the construction of physical improvements, including, but not limited to, the building, deck, accessory buildings or structures, porch, patio, driveway, septic field, cavatet, and any utility corridor ("building area"); and

- [2] Every effort shall be made to locate the building area so as to avoid damage to or removal of such tree or trees and the owner and applicant have provided the Village with evidence to establish that it is not feasible to relocate the building area based upon the physical characteristics or condition of the lot or that such relocation creates undue hardship and financial expense.
- (4) Tree survey/preservation plan. A tree survey and tree preservation plan shall be submitted with all preliminary plat applications and with all lot division applications. The tree survey shall be prepared by a certified arborist and tree preservation plan shall be prepared and signed by a certified arborist not more than two years prior to submission of the complete application and shall provide the following information: **[Amended 2-8-2023 by Ord. No. 23-003]**
 - (a) Location, diameter, condition (per Table 1: Tree Condition Rating Scale) and species of all significant trees on the site, and an identification of all protected trees.

**Table 1
Tree Condition Rating Scale**

Rating	Description	General Criteria
1	Excellent	The tree is typical of the species, has less than 10% deadwood in the crown that is attributable to normal causes, has no other observed problems and requires no remedial action.
2	Good	The tree is typical of the species and/or has less than 30% deadwood in the crown, 1 or 2 minor problems that are not imminently lethal to the tree, and no significant decay or structural problems, but the tree may need remedial care above normal care in order to minimize the impact of future stress and to ensure continued health.

**Table 1
Tree Condition Rating Scale**

Rating	Description	General Criteria
3	Fair	The tree is not typical of the species and/or has significant problems such as 30 to 50% deadwood in the crown, serious decay or structural defect, insects, disease or other problems that can be imminently lethal to the tree or create a hazardous tree if not corrected in a short period of time or if the tree is subjected to additional stress.
4	Poor	The tree is not typical of the species and/or has over 50% deadwood in the crown, major decay or structural problems, is hazardous or is severely involved with insects, disease, or other problems that even if aggressively corrected would not result in the long term survival of the tree.
5	Dead	Less than 10% of the tree shows signs of life.

- (b) Identification of which significant trees are:
 - [1] To be protected, preserved or undisturbed;
 - [2] To be removed or disturbed; and
 - [3] Exempt from the calculation (as defined in Table 2: Trees Species Exempt from Mitigation).
- (c) Identification of all trees which are dead, diseased or have been damaged.
- (d) Areas proposed to be designated as natural preserves where all natural vegetation, including significant trees, will be protected and preserved.
- (e) Proposed disturbance zones, as identified by cross-hatching or gray-colored shading on the plan.
- (f) Location and dimensions of building pads, construction zone for each lot and proposed street layout and grading contours of the site.

- (g) Proposed locations and details of tree protection fencing to be installed for all trees to be preserved. No excavation or other activity shall occur within the critical root zone or within the dripline, whichever is greater, of any tree that is to be preserved.
- (h) Calculation of removed or disturbed significant tree and protected tree inches on the site (excluding exempt tree inches) divided by the total significant tree and protected tree inches on the site (excluding exempt tree inches).
- (i) Trees exempt from mitigation.
 - [1] No replacement trees shall be required for trees that are in poor condition or dead, as defined in Table 1, "Tree Condition Rating Scale," of this section.
 - [2] The species listed in Table 2: Tree Species Exempt from Mitigation.

Table 2
Tree Species Exempt from Mitigation

Common Name	Scientific Name
Ash, Green	<i>Fraxinus pennsylvanica</i>
Buckthorn, common	<i>Rhamnus cathartica</i>
Elm, American	<i>Ulmus americana</i>
Elm, Siberian	<i>Ulmus pumila</i>
Locust, Black	<i>Robinia pseudoacacia</i>
Maple, Boxelder	<i>Acer negundo</i>
Maple, Silver or	<i>Acer saccharinum</i>
Mulberry, White	<i>Morus alba</i>
Osage Orange	<i>Maclura pomifera</i>
Pear, Bradford	<i>Pyrus calleryana</i>
Poplar, Lombardy	<i>Populus nigra 'Italica'</i>
Poplar, White or Silver	<i>Populus alba</i>
Russian Olive	<i>Elaeagnus angustifolia</i>
Tree of Heaven	<i>Ailanthus altissima</i>

*Any tree listed on the current Illinois Species of Special Concern list (invasive) is also exempt from mitigation.

- (5) Reforestation/restitution requirements.
 - (a) If the amount of significant tree or protected tree inches to be removed or disturbed exceeds the specified threshold, the owner or applicant shall provide a reforestation plan, or a calculation of restitution, or a combination thereof. If the owner or applicant causes or performs development in such a manner as to remove or cause

the removal or disturbance of less than: 1) 25% of the total inches in diameter of all significant trees and protected trees on a property within a residential zoning district; or 2) 12 1/2% of the total inches in diameter of all significant trees and protected trees on a property within a nonresidential zoning district, and provided such significant trees and protected trees are not located in an area which is otherwise unbuildable, the owner or applicant shall be entitled to reduce the amount of landscaping required under Village ordinances in connection with the development of the property by a percentage determined as follows; provided, however, such credit shall only apply to requirements for internal landscaping and shall not apply to landscaping requirements for areas in and along rights-of-way or lot lines:

- [1] For property in a residential zoning district: 25% minus the percentage of total inches in diameter of all significant trees and protected trees removed or disturbed; or
 - [2] For property in a nonresidential zoning district: 12 1/2% minus the percentage of total inches in diameter of all significant trees and protected trees removed or disturbed.
- (b) If a proposed development exceeds the allowable removal/disturbance threshold specified in § 138-5B(3)(b) or (c), Tree removal/disturbance threshold, as applicable, the owner or developer shall either reforest appropriate areas within the site (or, upon approval of the Village, outside the site if appropriate locations within the site are not available) or pay restitution in accordance with the provisions hereof, or provide a combination thereof. For each 1.0 tree inch that is removed or disturbed beyond the threshold, owner or applicant shall replant 1.25 inches of new trees or provide the Village with \$125 in restitution. Notwithstanding the foregoing, for each one tree inch of a tree that is described in § 138-5B(3)(d), Tree removal/disturbance threshold, the applicant shall replant two inches of new trees of the same type and species or provide the Village with \$250 in restitution. Restitution shall be paid to the Village in cash prior to the Village's release of the signed final plat for recording, prior to approval of a minor subdivision in the event a final plat is not required, or at the time of building permit application in the event a final plat is not required or a minor subdivision is not involved. Any restitution paid shall be placed in a designated Community Planting Fund of the Village and shall be used for reforestation projects in the Village.
- (c) A reforestation plan shall be prepared and signed by a registered landscape architect or forester and shall comply with the following criteria:
- [1] The plan shall indicate the location and diameter or height of all trees to be planted.
 - [2] No more than 10% of the trees to be planted may be from any one plant family unless recommended by the Village Forester. Trees shall be selected from the Approved Native Tree List and Approved Native Shrub List or the Approved Non-Native Tree/Shrub List; Approved Evergreen, Ornamental and Small Trees. Trees which are proposed to be located adjacent to or under utility lines

shall be selected from the Recommended Trees for Planting Under Utility Lines List. Trees which are proposed to be located in right-of-way areas or within 20 feet of a right-of-way shall be selected from the Recommended Street Tree List. The Village Forester shall have the authority to permit the planting of trees or shrubs other than those set forth in the foregoing approved lists. In addition to the approved lists, the Trees Not Recommended for Planting List and Noxious Plant Material List is on file with the Development Services Director.

- [3] Plantings shall be of similar vegetation as found on the site, with a preference for plantings designated as native to the site.
- [4] The minimum planting size for deciduous trees shall be 2.5 inches in diameter, and the minimum planting size for coniferous trees shall be eight feet in height, except that up to 15% of the required tree inches may be of ornamental species of a lesser size, provided the required number of replacement inches is maintained.

(6) Plan review.

- (a) The tree preservation plan and any related reforestation plan or calculation of restitution shall be reviewed and evaluated by the Village Forester. The Village Forester may make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts.
- (b) A tree preservation plan and reforestation plan, including the designation of any natural preserves, shall be considered for approval or denial by the Village Board as part of the review of a preliminary plat. A tree preservation plan and reforestation plan shall be considered for approval or denial by the Zoning Administrator as part of the review of a minor subdivision.
- (c) A tree preservation plan and reforestation plan may be amended after it has been approved. The Zoning Administrator shall have authority to approve amendments, except that a change resulting in removal of more than 5% of the significant tree inches that were shown as preserved on a Village Board approved tree preservation plan shall require further review by the Village Board. As part of any amendment to a tree preservation plan, the required reforestation and/or restitution shall be increased or reduced as appropriate. Requests for amendments shall be submitted prior to removal of any trees shown as preserved on an approved plan.

(7) Performance guarantee.

- (a) Tree guarantee. Replacement trees must be planted within 12 months of the issuance of a grading permit or building permit if no grading permit is issued, unless such time is extended by the Village Manager. The owner or applicant shall guarantee all trees planted pursuant to the reforestation plan for a period of one year from the date of planting. If a tree planted pursuant to the reforestation plan dies within one year from the date of planting, the owner shall remove the tree and

plant a replacement tree, which shall likewise be guaranteed for a period of one year from the date of its planting.

- (b) Following approval of the tree preservation plan, but prior to issuance of a grading permit or building permit if no grading permit is required, the owner or applicant shall provide a financial guarantee in the form of a cash escrow or letter of credit to guarantee performance in accordance with the tree preservation plan and the reforestation plan, if applicable. The guarantee amount shall be included as part of required security for public improvements.
 - (c) The amount of the financial guarantee shall be calculated as follows: 25% of the total significant tree and protected tree inches shown as preserved that are located within 15 feet of a disturbance zone multiplied by \$125 per inch, plus 100% of the total tree inches required by the reforestation plan, if applicable, multiplied by \$125 per inch. The minimum financial guarantee shall be \$1,000. The amount of the financial guarantee shall be maintained at the calculated level until such time as:
 - [1] All trees on the site (preserved trees and new reforestation trees) have survived a winter season, which is defined as the period October 31 through April 30 for the purpose of this section; and
 - [2] The Village has inspected the site and authorized a reduction or release.
- (8) Inspection and enforcement of preservation and reforestation plan; penalty.
- (a) Prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to issuance of a building permit if no grading operations are required, all sites shall be staked and fenced for tree preservation pursuant to the approved tree preservation plan. A copy of the approved tree preservation plan shall be submitted with an application for a grading permit or with an application for a building permit if no grading permit is required. The tree preservation plan shall also indicate any reforestation trees to be planted on the site. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any grading operations, the owner or applicant shall contact the Village Forester to schedule an inspection of the staking and fence installation on the site. No construction activity, movement, parking, and/or placement of vehicles, equipment or material or spoil storage shall be permitted within the area for tree preservation. No excavation or other activity shall occur within the area encompassed by the dripline or critical root zone, whichever is greater, of any tree that is to be preserved. No excess soil, additional fill, liquids, or construction debris shall be placed within the area encompassed by the dripline or critical root zone, whichever is greater, of any tree that is to be preserved. No permits shall be issued, nor shall any grading operations commence, without first receiving authorization by the Village Forester. Tree protection fencing shall be installed prior to commencement of clearing or excavation activities and shall remain in place until after the certificate of occupancy is issued for the building on the site. Tree protection fencing shall be installed and maintained in accordance with the Tree Protection Detail on file with the Development Services Director. In addition to the

tree protection fencing, a protective sedimentation fence shall be installed at the dripline of all significant trees or protected trees which are located downgrade of any clearing, excavation and/or construction activity.

- (b) Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the owner or applicant shall contact the Village Forester to schedule a second inspection of the site to verify the preservation of trees, as shown on the approved tree preservation plan. No additional permits shall be issued for any property within the plat until a fine of \$150 per tree inch is paid for the disturbance of all significant tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the Village.
- (c) Prior to issuance of a certificate of occupancy, the owner or applicant (or builder if different from the owner or developer) shall contact the Village Forester to schedule a final tree preservation inspection to verify the preservation of trees and the planting of any reforestation trees, as shown on the approved tree preservation plan. This required inspection shall be made at least five working days before the certificate of occupancy is requested. Prior to issuance of a certificate of occupancy, a fine of \$150 per inch shall be paid for the disturbance of all significant tree and/or protected tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the Village.
- (d) Stop-work order.
 - [1] Tree removal has been undertaken in violation of this subsection; or
 - [2] The required protective fencing has been damaged, destroyed, removed or otherwise rendered ineffective for the purpose for which it was required; or
 - [3] The person performing tree removal has failed to post the appropriate performance guarantee required by § 138-5B(7), Performance guarantee); or
 - [4] The necessary precautions as specified in the tree preservation plan were not undertaken before construction or tree removal commenced, and/or disturbance to significant trees or protected trees has occurred or is likely to occur during construction.
- (e) The stop-work order shall be in effect until such time as the permittee complies with the appropriate regulations or, in the case of existing or likely disturbance to significant trees, takes corrective action acceptable to the Village to mitigate any damage to such significant trees. The fee for inspections required for issuance of an order to remove a stop-work order shall be as set forth in Chapter 114, Fees, Article II, of the Village Code. Notwithstanding the payment of the aforesaid fee and the removal of a stop-work order issued hereunder, the person or entity to whom such order was directed as well as the owner of the property on which the

- tree or activity upon which the stop-work order was based shall remain fully liable for the payment of all otherwise applicable permit fees, and responsible to take all tree protection, tree replacement and other activities otherwise required by this subsection.
- (f) Any person found to have violated any of the provisions of this subsection shall, upon conviction thereof, be fined in an amount of not less than \$250 and not more than \$1,000. A separate violation of this subsection shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue. In addition, such person shall be required to comply with the provisions of this subsection relating to reforestation.
- (g) The Village shall have the right to seek injunctive relief from a court of competent jurisdiction to enjoin any acts or actions relating to the removal or threatened removal of significant trees in violation of the provisions of this subsection.
- (9) Appeals. The owner or applicant may appeal in writing to the Village Manager or his or her designee any decision made by the Village under the provisions of this subsection within 30 days of such decision being rendered. If the owner or permittee is not satisfied with the decision made by the Village Manager, the owner may appeal in writing to the Village Board of Trustees within 30 days of the decision being rendered by the Village Manager.

C. Public Tree Preservation

(1) Purpose & Statement of Value

- (a) The Village Board recognizes that all trees located on public property, are unique, intrinsically significant and valuable assets in and to the Village of Homer Glen.
- (b) The purpose of this ordinance is to protect and preserve the urban forest canopy on property owned or operated by the Village of Homer Glen in order to enhance the quality of life for residents and visitors.
- (c) The Village Board recognizes that trees located on public property are an integral part of the infrastructure of the Village and as such should be preserved, protected, and cared for as any other critical Village infrastructure.

(2) Definitions. For purposes of interpreting the text of § 138-5(C) of the Village Code, the Village adopts the definitions set forth in the Subdivision and Site Development Code, §138-1(B).

(3) Scope

- (a) The definitions, purpose, and findings of § 138-5(C) shall apply solely to § 138-5(C), and shall further apply without any temporal limitation and is in effect 24 hours per day, 7 days per week, 365 days per year, and application of the ordinance does not require a triggering event such as a building permit application.
- (b) This ordinance shall apply to existing public property trees owned by the Village, and trees proposed to be planted on Village property.

(4) Authority and Enforcement

- (a) The Village Arborist, with assistance from other Village department staff including, but not limited to Public Works, Parks, Planning & Zoning, Building, Development Services, or the governance of the Village Board, shall be responsible for enforcement of this Public Tree Preservation Ordinance.
- (b) The Village Arborist shall have proper certification or licenses in arboriculture. In the case where the Village of Homer Glen does not have a certified arborist on staff, Village staff shall consult with an external arborist for management and care recommendations.

(5) Tree Planting and Maintenance Standards

- (a) All tree planting and maintenance activities shall follow the standards established in SOP #11 (adopted August 26, 2014), which is kept on file with the Village staff.
- (b) Any tree care operations performed on public trees not specified in SOP #11 shall be performed to ANSI A300 standards.
- (c) All contractors performing forestry activities on Village owned trees shall possess an insurance policy approved by the Village. Preferences for contracted tree removal, planting, and maintenance on public right-of-way, as approved by the Village of Homer Glen per SOP #11, will first be given to contractors with a certified arborist or contractors that adequately display arboricultural training, degrees, or certifications.

(6) Permits

- (a) No tree removal, disturbance, or planting may occur on Village-owned property without approval from the Village of Homer Glen.
 - [1] Planting and maintenance from the Village of Homer Glen and/or Village approved and contracted vendors permitted to work on public property shall not require permits.
 - [2] Parkway planting and maintenance proposed by developers, property owners, contractors and other agents shall be reviewed by the Village through building permit review, site development review, site development permits, or other permits as necessary.
 - [3] All other proposed activities which include tree removal, disturbance, planting, and/or maintenance activities on Village-owned land which contain public trees shall require a Site Development Permit.
- (b) Tree removal, protection and replacement plan submittal
 - [1] No tree removal is permitted on public property unless such tree is located within the area of the property in which there is proposed construction of physical improvements with approval from the Village of Homer Glen. It shall be unlawful to remove any tree located on public property without having first secured Village approval for permitted development activities.
 - [2] A plan indicating any tree removal or disturbance, protection measures, and/or tree planting shall be submitted to the Village in any instance on Village-owned property where trees are proposed for removal, disturbance, preservation during development, and/or planting.
 - [a] A tree removal or disturbance plan shall indicate all tree locations, species in both scientific names and common names, diameter at breast height and condition.
 - [b] The applicant shall submit to the Village the proposed locations and details of tree protection fencing to be installed for all trees to be preserved. No excavation or other activity shall occur within the critical root zone or within the dripline, whichever is greater, of any tree that is to be preserved.
 - [c] Trees proposed for planting must meet the Parkway Tree Planting requirements on Village-owned property and shall be indicated on an appropriate plan showing the location, species in scientific and common names, and caliper inch.
- (c) Any plan review fees shall be the responsibility of the applicant.

(7) Replacement

- (a) Trees that are healthy and non-invasive located on public property that are to be removed or otherwise disturbed to cause damage to the tree during permitted development activities shall be replaced per § 138-3G to meet the Parkway Tree Planting requirements of the Village Code.

(8) Exemptions

- (a) Trees located on public properties that are deemed to be hazardous by the Village Arborist are exempt from the permit and replacement requirements of this section.

(9) Penalties

(a) Any person found to have violated any of the provisions of this subsection shall, upon a finding of liability thereof, be fined in an amount of not less than \$250 and not more than \$1,000. A separate violation of this subsection shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue. In addition, such person shall be required to comply with the provisions of this subsection relating to reforestation.

(10) Appeals

(a) The owner or applicant may appeal in writing to the Village Manager or his or her designee any decision made by the Village under the provisions of this subsection within 30 days of such decision being rendered. If the owner or permittee is not satisfied with the decision made by the Village Manager, the owner may appeal in writing to the Village Board of Trustees within 30 days of the decision being rendered by the Village Manager.

C.D. Conservation subdivisions.

(1) Finding and purpose.

- (a) The Village Board has determined it to be in the best interests of the Village to promote the health, safety and welfare of the community by encouraging environmentally responsible development through the application of flexible land development techniques while protecting for the property owner development rights that would otherwise be available under conventional zoning for the property.
- (b) The Village Board has determined that the implementation of conservation design standards and procedures within the Village will encourage more efficient use of land and public services through unified development that will protect biodiversity, encourage development which conforms to the Village's Comprehensive Plan and goals relating to the preservation of open space, conserve community resources, preserve natural areas, and protect health, safety and welfare of the community.
- (c) The Village Board has determined it to be in the best interests of the Village to create a Residential Conservation Overlay District and adopt the conservation design standards and procedures set forth herein to maximize the achievement of the foregoing objectives in addition to the following purposes:
 - [1] To provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;
 - [2] To preserve unique or sensitive natural resources such as groundwater,

floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat;

- [3] To preserve important historic and archaeological sites;
 - [4] To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;
 - [5] To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development;
 - [6] To promote interconnected greenways and corridors throughout the community;
 - [7] To promote contiguous greenspace with adjacent jurisdictions;
 - [8] To encourage street designs that reduce traffic speeds and reduce the number of access points on main arteries;
 - [9] To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities and businesses; and
 - [10] To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.
- (2) Creation of overlay district. There is hereby created the Residential Conservation Overlay District (RCO-1). Subdivisions developed pursuant to the provisions of this subsection may be referred to as "conservation subdivisions."
- (3) Purpose. In addition to achieving the purposes and objectives set forth in § 138-5C(1), Findings and purpose, the RCO-1 is intended to encourage residential development that conforms to the type, density and physical design described in the Village's Comprehensive Plan and which would conform to the Village goals of preserving open space as outlined in the Village's Green Vision Plan. It is the intent of this overlay district to encourage more efficient use of land and public services through unified development that will protect biodiversity, to foster an open space network, as part of the developing network of subdivisions that are purposely linked together, to permit the preservation of habitat for wildlife, provide for local and regional recreational trails, allow for the conservation of hilly areas, wetlands, prairies, wooded regions, other unique areas, and for the perpetuation of the diversity of the natural ecological systems.
- (4) Applicability.
- (a) All residential subdivisions in the following zoning districts shall be developed as conservation subdivisions in accordance with the provisions of this subsection unless exempted from this requirement under § 138-5C(5), Exempt subdivisions:
 - (b) Any such development shall comply with all other provisions of Chapter 220 (Zoning Code), of the Village Code, the Subdivision Ordinance, and all other Village ordinances, except to the extent otherwise specifically provided herein.

The provisions of this subsection shall be considered to be supplemental standards and requirements applicable to any such development. In the event of a conflict between the provisions of this subsection and any provisions in Chapter 220 (Zoning Code), the Subdivision Ordinance or other Village ordinances, including but not limited to ordinances relating to landscaping and tree preservation, the provisions of this subsection shall apply to such development.

- (5) Exempt subdivisions. Any subdivision that meets one or more of the criteria below shall be considered exempt from this subsection:
 - (a) The subdivision shall consist of a total land area of 10 acres or less, exclusive of roads or easements of access.
 - (b) The subdivision shall consist of lots, each of which has a minimum land area of 1.5 acres in size or greater, exclusive of roads or easements of access.
 - (c) Notwithstanding any of the exemptions listed above, a development of any type may voluntarily choose to comply with the standards contained in this subsection for design of a development.
- (6) Continuation of uses. Any uses listed as permitted uses, accessory uses, special uses and prohibited uses in the underlying zoning district applicable to such site shall continue in the same manner upon approval of the RCO-1 District for such site.
- (7) Application and design process.
 - (a) Site analysis. The applicant shall perform and submit to the Village a site analysis for the purpose of determining what existing conditions or features located on the site are desirable to preserve as part of the required open space percentage and identify those conditions or features which present obstacles that must be considered and overcome in the proposed design. The site analysis shall include an inventory of existing conditions or features of the site. The inventory of existing conditions or features shall include all natural and man-made features located on the site. If available, the applicant shall utilize the officially adopted Village Geographical Information System (GIS) maps of the environmental conditions and features present on the site and adjacent properties.
 - [1] At minimum, the site analysis shall include a map(s) at a scale of no less than one inch equals 100 feet that depicts the following.
 - [a] A topographic survey that extends a minimum of 200 feet outside the boundaries of the site with a vertical contour interval of two feet or less identifying all areas with slopes of more than 12%, including the location of all property lines and easements.
 - [b] An analysis of existing drainage patterns and drainage divides, including any floodplain and wetland areas and a topography map indicating in what drainage area the site is located.
 - [c] A delineation of all "woodlands" at the dripline that form a biological

community dominated by trees having an average canopy height greater than 20 feet and other woody plants covering a land area of at least 10,000 square feet and generally characterized by a tree density of 100 or more trees per acre with at least 50% of such trees having a diameter at breast height (4.5 feet above ground level) of two inches or greater. An orchard or tree nursery is not considered a "woodland" for purposes of this section. The predominate species within the woodland shall be identified.

- [d] The location of all protected trees (as defined in § 138-5B, Tree preservation, of this chapter, as amended from time to time) on the site. For purposes of this subsection, a specimen tree is a tree in good health that is of unusual or exceptional form, size, age or shape for its species and/or occupying a significant position within the site. (Individual specimen trees should be identified as to species, size and health.)
 - [e] A vegetation analysis identifying the hedgerows, meadows and prairies. Vegetation should be identified as evergreen or deciduous, with the relative health and condition indicated. The predominant species of vegetation in a hedgerow should be identified.
 - [f] General soil types, highlighting hydric soils.
 - [g] The boundaries and characteristic of any primary or secondary environmental corridor and isolated natural resource area as identified in the Village Comprehensive Plan, the Village Green Vision Plan or other appropriate plan or ordinance adopted by the Village shall be indicated.
 - [h] The location of any historic or cultural features.
 - [i] The location of all existing buildings and structures, indicating their use and condition.
 - [j] The location and classification of all existing streets adjacent to the site.
 - [k] The use and existing conditions of all other properties surrounding the site within 200 feet, identifying any potential open space or trail connections.
- [2] Upon review, Village Staff may require that additional areas be included or that additional information be provided to supplement the above minimum requirements.
- (b) Delineation of preservation areas. Upon an applicant's receipt of notice that the applicant's site analysis has been approved, the applicant shall determine the areas within the property to be set aside and protected as preservation areas.
- [1] Preservation areas are those portions of the site that shall be set aside for permanent protection.
 - [2] Preservation areas shall include:

- [a] All areas that are protected through local, state, and federal regulations, such as floodplains, floodway and wetlands;
- [b] Environmentally sensitive areas that connect to a Village, Township or Village park or forest preserve; and
- [c] The area of woodlands at the dripline, structures and features of the site that contribute to the country-like character of the site.

(c) Site capacity.

- [1] Calculation of the site capacity (or the number of dwelling units permitted) shall be based upon net buildable acreage as determined herein. The applicant shall determine the net buildable acreage using the following method, substantiated by sufficient plans and data to verify such calculations. (Note: all calculations shall be to two decimal places.)
- [2] The maximum number of lots that a site may be developed with is determined by dividing the net buildable acreage by the permitted minimum lot size for the underlying zoning district, as set forth in Chapter 220, Zoning. The maximum number of lots shall be subject to modification based upon the design requirements set forth in § 138-5C(8). All fractional numbers of lots shall be rounded to the nearest whole integer. For purposes of calculating site capacity, where two or more categories overlap, the overlapping acreage shall be counted only once using the more restrictive classification.
- [3] Sketch plan. The applicant shall prepare a preliminary sketch plan depicting the number and design of lots within a proposed subdivision. The sketch plan shall reflect the delineation of the preservation areas identified and approved by the Village of Homer Glen. The preliminary sketch shall list all modifications being sought from the Village of Homer Glen ordinances and be subject to the development and design.
- [4] Review procedure. The procedure for the review of the proposed conservation subdivision and any plats relating thereto shall follow the provisions set forth in the Village Subdivision Ordinance.

(8) Development and design standards.

(a) The following standards shall apply to a conservation subdivision:

- [1] Lot requirements.
 - [a] The actual minimum lot size permitted shall be as follows:

District	Minimum Lot Size
R-1 Single-Family Residence	40,000 square feet, well and septic 30,000 square feet, sewer and water
R-2 Single-Family Residence	20,000 square feet
R-2A Single-Family Residence	17,000 square feet R-
3 Single-Family Residence	14,000 square feet
R-3A Single-Family Residence	12,000 square feet
R-6A Multifamily Residence	Minimum lot size not applicable

- [2] Bulk requirements.
 - [a] The building setback, bulk requirements and lot coverage for all principal buildings located in a conservation subdivision shall be as follows unless otherwise approved by the Village.
 - [i] Front yard setback: 30 feet from property line.
 - [ii] Side yard setback: 10 feet from property line.
 - [iii] Rear yard setback: 30 feet from property line.
 - [iv] Minimum lot width: 80 feet measured at front of lot.
 - [v] Cul-de-sac lot width: 60 feet measured at front of lot.
 - [vi] Maximum height: 35 feet.
 - [vii] Lot coverage: 40%.
 - [b] Accessory buildings shall follow the bulk requirements listed for the R-3A Zoning District.
- [3] Not less than 90% of the lots within the subdivision shall directly abut part of the open space located on a separate lot. Open space across a street shall not satisfy this requirement.
- [4] All residential clusters shall comply with the following:
 - [a] Each cluster shall contain no more than 20 dwelling units and no fewer than five dwelling units.
 - [b] Each cluster shall be located to minimize the impact and degradation of the environmental features of the site.
 - [c] Each cluster shall connect with existing or potential open space lands and/or local or regional trails.
 - [d] No lot within a cluster (or unit in the case of a condominium

development) shall be located closer than 20 feet to any perimeter boundary of the site.

- [5] Lots shall be clustered and configured to minimize the amount of road length required except as may otherwise be required by the Village of Homer Glen.
- [6] All lots shall take access from interior local streets and not from arterial or collector streets bordering the subdivision.
- [7] Except as permitted for the R-1 Single-Family Residence District, all conservation subdivisions shall be developed with public sanitary sewer and water services.
- [8] If a lot is located within designated preserved woodland area, the individual building envelope shall be configured to minimize the loss of woodlands.
- [9] A minimum thirty-foot vegetative/landscaping buffer contained in a separate lot shall be maintained around the exterior of the development on all sides that abut a dedicated roadway. The views and appearance of the development from arterial and collector streets shall minimize the appearance of the subdivision. A trail or sidewalk shall be constructed within this buffer area that shall connect to any neighboring trails or sidewalks. If large enough, this buffer area may count as part of the required open space area.

(b) Street requirements.

- [1] All streets, whether publicly dedicated or private, shall be developed to the standards specified in the Village of Homer Glen Subdivision Ordinance unless modified as below:
 - [a] The width of any interior secondary street right-of-way may be 60 feet unless the Village Engineer requires a greater width.
 - [b] The width of any interior secondary street within a conservation subdivision shall be 28 feet as measured from edge of pavement to edge of pavement, with parking limited to one side of the street, unless the Village Engineer requires a greater width. All streets within a conservation subdivision shall be developed with curb and gutter drainage and best management practices for stormwater management, except that such subdivision or parts thereof may be developed with a rural open ditch design which incorporates the use of best management practices upon approval of the Village Board.
 - [c] Sidewalks/trails shall be constructed on only one side of all interior secondary streets unless the Village Board requires walks on both sides.

(c) Stormwater requirements.

- [1] All stormwater management shall use best management practices to minimize the effects of stormwater runoff.

- [2] The required stormwater management area may be included within the required open space area if the stormwater management area is configured and developed with wetland plantings and fits into the overall appearance of the open space as determined by the Village.
- [3] All stormwater detention/retention management areas shall be developed on a separate lot that is not part of an individual building lot and shall be owned and maintained by the homeowners' association for the subdivision.

(d) Park requirements.

- [1] The Village may elect to require that additional land be set aside for a "park area" as may be indicated by a Village of Homer Glen Master Park Plan. Any park area that is to be given to a public entity shall not be counted as part of the required open space area. If a park area is not required, the developer shall be required to submit a fee in lieu of the area as required by § 138-4E, of the Village Code.
- [2] Any park area that may be required shall consist of land that can be developed as an active recreational use. This use may include a variety of uses, including playgrounds, ball fields, etc.
- [3] All park areas shall be fully developed within three years of the start of the development unless additional time is granted by the Village of Homer Glen.

(e) Open space requirements.

- [1] All designated open space parcels shall be subdivided and protected from construction activities through the use of construction and silt protection fencing prior to the start of any construction, earth excavation, clearing or grubbing activities on the site.
- [2] The percentage of the site devoted to open space shall meet the following minimum percentage of the gross land area of the site:

District	Minimum Percentage of Gross Land Area
R-1 Single-Family Residence	
Well and septic	30%
Sewer and water	50%
R-2 Single Family Residence	50%
R-2A Single-Family Residence	50%
R-3 Single-Family Residence	30%
R-3A Single-Family Residence	20%
R-6A Multifamily Residence	20%

- [3] The following areas may be located within and counted as a part of the open space areas: floodplain, wetland areas, areas of greater than 12% slope, ponds and lakes, stormwater management areas if such area is configured and developed with wetland plantings and fits into the overall appearance of the open space as determined by the Village, walking or bicycle trails, parking areas and roadways providing access to those parking areas providing access to the open space, private buildings and structures accessory to the use of the open space, areas encumbered with utility easements and easements for drainage which are not located on lots on which a residential structure will be located, provided such areas are otherwise developed in accordance with the Village's Master Park Plan or are developed consistent with the character of other areas of open space on the site, and preservation areas.
- [4] Road rights-of-way and private roadway easements and parking lots shall not be counted as part of the open space areas [other than as approved in § 138-5C(8)(e)[3] above].
- [5] The following requirements apply to open space in a conservation subdivision:
- [a] At least 80% of the open space area shall be configured as a single whole, not including any trails to individual lots unless approved by the Village of Homer Glen. Any trails to individual lots shall be on outlots a minimum of 20 feet wide. Any trails or open space areas that are less than 50 feet wide or areas that the Village staff determines to be gerrymandered shall not be counted as part of the 80% whole.
 - [b] At least 25% of the net open space area shall consist of land that is suitable for building.
 - [c] All open space areas shall be made accessible by the general public whenever possible through the use of trails and other facilities.
 - [d] The responsibility for maintaining the open space and any facilities located thereon shall be borne by the developer of the conservation subdivision for a period of five years from the start of construction or for a shorter period of time if agreed to by the Village of Homer Glen, at which time the responsibility for maintenance and title to the open space areas shall be given to the Village of Homer Glen at no charge free and clear of all liens and encumbrances. At the request of the Village of Homer Glen, in addition to the dedication language hereinafter required on the final plat, the developer shall convey the open space to the Village of Homer Glen by a recordable quit claim deed. If the required three-year period has not passed, the developer shall post a letter of credit with the Village of Homer Glen at the time of issuance of building permits for 80% of the dwelling units in the development or when the developer sells his or her last lot in the development to secure the developer's open space maintenance obligation. The letter of credit shall be in an amount equal to 110% of the cost of maintaining such open space for the remainder of

the five-year period. All adopted final development plans shall indicate that the open space is "to be dedicated" and provide the Village of Homer Glen an easement for access and maintenance purposes. The Village shall have no obligation to accept title to the open space unless and until such open space is in full compliance with the provisions of this subsection and any conditions placed on the open space through the approval of the development. Upon such conveyance, the Village of Homer Glen shall continue to hold and own said property as open space, provided such open space can be developed at the Village's discretion with uses accessory to or consistent with the objectives of this subsection or with the objectives of the Village of Homer Glen Parks Master Plan.

- [e] The applicant shall submit a plan for management of open space and common facilities, including the plan for the improvement or enhancement of the open space.

(9) Modification.

- (a) Purpose of modification. The modification process is intended to provide limited relief from the requirements of this subsection in those cases where strict application of those requirements will create a practical difficulty or particular hardship prohibiting the use of land in a manner otherwise allowed under this subsection. It is not intended that modifications be granted merely to remove inconveniences or financial burdens that the requirements of this subsection may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this subsection render the land difficult to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the modification is requested.
- (b) Application; notice of hearing; procedures.
 - [1] An application for a modification shall be filed in writing with the Development Services Director listing all modifications and the section of this subsection pertaining to the modification. The application shall contain such information as the Plan Commission may require.
 - [2] The Plan Commission, after a public hearing, may recommend to the Village Board the modification of the regulations of this subsection. The Plan Commission shall make recommendations only in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the standards and regulations of this subsection relating to the use of land in harmony with the general purpose and intent of this subsection, only where such Plan Commission makes findings of fact in accordance with the standards set forth herein; and, further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this subsection. The Plan Commission may recommend to the Village Board imposition of such conditions and restrictions upon the site as may be necessary to otherwise comply with the standards set forth herein, to reduce or minimize the effect of such modification upon other

property in the neighborhood and to implement the general purpose and intent of this subsection. Publication shall be made in the same manner as provided for variations in Chapter 220, Zoning.

- [3] The Village Board may grant or deny the application for a modification. If the application is not acted upon finally by the Village Board within 120 days of the date the Village Board receives the Plan Commission's recommendation, and such time is not extended by mutual consent of the Village Board and petitioner, the application shall be deemed to have been denied.

(c) Standards for modifications.

- [1] The Plan Commission shall not vary the provisions of this subsection as authorized unless it has made findings based upon the evidence presented to it in the following cases:

[a] That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;

[b] That the plight of the owner is due to unique circumstances; and

[c] That the modification, if granted, will not alter the essential character of the locality and will not frustrate the general purpose of this subsection.

- [2] A modification shall be recommended to the Village Board only if the evidence, in the judgment of the Plan Commission, sustains each of the three conditions enumerated in § 138-5C(9)(c)[1] above (Standards for modifications).

- [3] For the purpose of supplementing the above standards, the Plan Commission, in making its determination, may also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

[a] That the particular physical surroundings, shape or topographical conditions of the specific property involved will bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.

[b] That the conditions upon which the petition for modification is based would not be applicable, generally, to other property within the same zoning classification.

[c] That the purpose of the modification is not based exclusively upon a desire to make more money out of the property.

[d] That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

[e] That the granting of the modification will not be detrimental to the public

welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located.

- [f] That the proposed modification will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.
- [4] Conditions. The Plan Commission may require such condition and restrictions upon the premises benefited by a modification as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such modification upon other property in the neighborhood, and to implement the general purpose and intent of this subsection.
- [5] Authorized modifications. Modifications from the regulations of this subsection shall be granted by the Plan Commission only in accordance with the standards set forth in this section and may be granted only with respect to the standards set forth in § 138-5C(8), Development and design standards, of this subsection.
- [6] Effective period. No order of the Plan Commission granting a modification shall be valid for a period longer than one year from the date of such order unless a building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period. The Plan Commission may grant one extension of this period, valid for no more than 180 additional days, upon written application and good cause shown, without notice or hearing. If any of the benefits conferred by any modification, whether heretofore or hereafter granted, are abandoned, or are not utilized for any continuous period of one year, said modification shall, to the extent of such abandonment or nonutilization, become invalid after a public hearing is provided herein.