

Part IV
Article XXXI

TREE AND LANDSCAPING ORDINANCE

Section 3100 Purpose and Goals

It is the purpose and intent of this Article to:

- A. Promote and enhance the beauty of the City of Valparaiso through tree preservation and landscaping;
- B. Insofar as practical, safeguard the ecological environment of the City of Valparaiso by dissuading the unnecessary clearing and disturbing of land and existing natural vegetation;
- C. Promote planting and maintenance of trees and shrubbery on public and private land.

Section 3105 Authority and Power

The chapter hereby creates a Tree Advisory Board, under the jurisdiction of the Board of Public Works and Safety of the City of Valparaiso, which shall consist of five (5) members. Each member shall be a resident of the City of Valparaiso and shall be appointed by the Mayor as provide herein. Members of the Tree Advisory Board shall serve without compensation.

Section 3110 Terms of Office

Two members of the Tree Advisory Board shall have an initial term of one (1) year; two members shall have an initial term of two (2) years and one member shall have a term of three (3) years. Subsequent thereto the term for members of the Commission shall be three years. For purposes of appointment terms shall begin on January 1st and end on December 31st at the end of the term. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

Section 3120 Definitions

- A. Caliper: a caliper is the diameter measurement of the trunk taken 6 inches above ground level
- B. Diameter Breast Height (DBH): the diameter of a tree in inches 4 1/2 feet above the ground.
- C. Exempt Tree: any tree on the Exempt List as maintained and provided by the City of Valparaiso Parks and Recreation Department (Exhibit A).
- D. Nuisance Tree: a diseased or weakened tree with an accelerated potential to cause physical human harm or to cause property damage.
- E. Person: a person shall be defined as any individual, corporation, business or any other entity, whether private or governmental, including the City of Valparaiso.
- F. Priority Tree: any tree on the Priority Tree list as maintained and provided by the City of Valparaiso Parks and Recreation Department (Exhibit B)
- G. Public Property: all property owned by the City of Valparaiso or any agency or department thereof and all property included in the Public Way as defined by the Valparaiso Zoning Ordinance.
- H. Replacement Tree: a replacement tree shall be a tree 2-inch caliper or greater which is not an exempt tree. Further, replacement trees shall conform at mature size with the planting space, taking into consideration buildings, sidewalks, curbs and overhead and underground utilities.

- I. Tree: a woody, perennial plant, ordinarily with one main stem or trunk, which develops many branches, and which ordinarily grows to a height of ten feet or more with a diameter in excess of 6 inches at a height of five feet.
- J. Tree Canopy: shall mean the area covered by tree stems, branches and leaves as viewed overhead. Canopy shall be quantified in square foot coverage.
- K. Topping: the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Section 3125 Licensing

It shall be unlawful for any contractor to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the City without first producing evidence of certification/license before the City. (Any person who requires a license pursuant to this ordinance shall be considered a Contractor, pursuant to the Contractor's Ordinance and shall pay the appropriate fee provided by ordinance.)

Section 3130 Insurance

Before any license shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

Section 3135 Public Property Tree Removal and Planting

- A. No person shall remove a tree from public property nor plant a tree on public property except by the consent of the City of Valparaiso Street Superintendent or designated agent or agents.
- B. The City of Valparaiso Street Superintendent or designated agent or agents may remove a tree from improved and accepted public way. As a condition of removal for non-exempt trees, the owner must agree to replacement provision in Section 3140.
- C. Tree removal as a result of a City project within public property shall require tree replacement in accordance with Section 3140.

Section 3140 Tree Removal, Replacement, and Maintenance

- A. Tree Species – The City Tree commission shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium, and large.
- B. Spacing - The spacing of street trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: small trees , 20 feet; medium trees, 30 feet; large trees, 40 feet.
- C. Utilities – No street trees other than those species listed here in as small trees may be planted under or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.
- D. Topping – It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the City of Valparaiso Street Superintendent or designated agent or agents or the City Tree Commission.

- E. The Tree Advisory Board shall have the authority to develop rules and regulations relating to the planting of trees with regard to spacing for curb and gutter and sidewalk.
- F. This section shall not apply to:
 - 1. trees with a DBH of less than 10-inches;
 - 2. exempt trees;
 - 3. improved properties, unless specifically expressed in this Article; and
 - 4. unimproved properties of less than one-half (½) acre, unless specifically expressed in this Article.
- G. Tree removal in excess of (G)(1) or (G)(2) below shall require a site plan review or must be part of an approved landscape plan, and furthermore shall be subject to tree replacement requirements in Section 3125.
 - 1. A person may one time only remove on an unimproved lot or parcel up to three (3) non-exempt trees within a one calendar year period; or
 - 2. If the parcel or lot contains more than one acre of tree canopy, a person may one time only remove up to three (3) non-exempt trees per acre within the tree canopy within a one calendar year period.
- H. A person must remove within a reasonable period of time, and need not replace, a tree if it cannot be saved and if any of the following conditions are present:
 - 1. The tree causes a safety hazard to pedestrians or vehicular traffic;
 - 2. The tree causes a safety hazard to a building;
 - 3. The tree is diseased or weakened.
- I. Tree Removal Necessitated by Greater Standards
In the event the City requires the construction of developmental improvements greater than those required by the standards (such as wider street pavements), and said greater improvements necessitate that additional trees be removed from the premises, the developer shall be liable for the replacement of only those trees required to be removed because of the normal standards. The City shall be liable for the trees removed because of the greater standards.
- J. Tree replacement shall be based on the below ratio for every non-exempt tree of 10" DBH or greater that is removed in excess of Section 3140 (G) or as required in Section 3115 (B).
 - 1:1 tree replacement to removal for trees between 10" DBH and less than 16" DBH
 - 2:1 tree replacement to removal for trees between 16" DBH and less than 24" DBH
 - 3:1 tree replacement to removal for trees between 24" DBH and less than 30" DBH
 - 4:1 tree replacement to removal for trees 30" DBH and over
- K. A person shall, at their option:
 - a. plant replacement trees on the site or subsequent phase; or
 - b. if the person has another approved project within the City, plant replacement trees on said site with the consent of the City; or
 - c. pay to the City \$200.00 per replacement tree to be deposited in the Tree Fund, as set forth in Section 3140.
- L. Not with standing (2) above, the following maximum monetary limitations shall apply to each person:
 - a. for a developer, \$10,000;
 - b. for a building contractor, 1% of the estimated cost of construction as indicated on the application for Building Permit;

- c. for the City, \$10,000 per project.

For the purpose of this calculation each tree planted under (2) above shall be assigned a value of \$200.

Section 3145 Landscape Plans

A. Applicability and Approval Process

1. The requirements of this section shall apply to:
 - a. projects under Section 3145;
 - b. projects requiring subdivision approval; or
 - c. projects requiring planned unit development approval.
2. Landscape plans shall be submitted to the Site Review Committee and shall be required for all such projects under Section 3145 unless specifically expressed in this Article.
3. During initial site review for projects requiring a landscape plan, a site plan shall be submitted to the Site Review Committee which depicts the general location of any existing tree canopy in relation to existing and proposed site improvements.
4. Landscape plans submitted to the Site Review Committee shall be forwarded for approval to Valparaiso Park Department horticulturist or designated agent. Changes to an approved Landscape Plan, which reduce the number of trees to be planted and/or remove additional non-exempt trees of 10-inch DBH, shall require the review and approval from the Valparaiso Department of Parks and Recreation.

B. Contents of Landscape Plan

1. Landscape plans shall be drawn to scale of not less than 1 inch=50 feet or as an overlay on a topographical survey.
2. Landscape plans shall contain the following criteria or information estimated as close as possible:
 - a. the location of existing and proposed structures;
 - b. the location of parking lots, drives, roadways, right-of-ways, and sidewalks;
 - c. the elevations and locations of all fences, bridges, retaining walls or other similar details;
 - d. the number, species, and general location of all non-exempt trees of 10-inch DBH or greater to be removed.
 - e. lot coverage calculations before and after site (re)development.
 - f. the DBH, general location, species of all trees and plant material to be planted after site (re)development.
3. Residential subdivisions and Planned Unit Developments shall be required to show for (2)(d) and (2)(g) above trees and plant material within public property, common areas, open space and or recreation areas.
4. The Landscape plan shall contain a summary of the covenants and restrictions that pertain to this Article.
5. The Landscape plan shall contain a statement of the methods by which the applicant will satisfy the requirements of this Article throughout site (re)development.
6. Landscape plans shall show how the developer intends to work with the natural features of the property, with special concern being given to the preservation of mature trees and those trees on the Priority Tree List during site (re)development.

7. Landscape plans shall specify the planned impact of proposed improvements and development (overhead lines, roadways, berms, parking areas, etc.) upon the property.
- C. Selection and Installation of plant materials
1. Planting materials used by any person in conformance with provisions of this section shall be of good quality and of a species expected to thrive in the climate of Northwest Indiana.
 2. All landscaping material used by any person shall be installed in accordance with planting procedures which shall be established and made available by the City of Valparaiso Parks and Recreation Department.
 3. The scale and nature of landscape material should conform at maturity to the site and structures. For example, larger scaled buildings should ordinarily be complemented by larger scaled plants.
 4. Evergreens should be incorporated into the landscape treatment of a site, particularly in those areas where parking lots are otherwise required by law to be screened.
- D. Special requirements
1. Residential Development:
 - a. No "Inspection for Use and Occupancy" shall be finally approved unless the residential subdivision lot for single family or duplex uses, as finally developed, contains one non-exempt tree of at least 2-inch caliper for every 2,000 square foot minimum lot required for said use in the underlay zoning district or is a requirement of property owner's covenants and restrictions. Fractions shall be rounded down to the whole tree amount.
 - b. Multiple family buildings not covered in (1)(a) above shall have at least one fifth of the green space required for such project covered by plantings consisting of shade trees, evergreen trees, shrubbery, and other ground plantings, but not including grass. Any plantings in the interior of a parking lot shall count toward the one-fifth requirement.
 2. Commercial and Industrial Development:

In commercial and industrial zones only, for all projects involving:

 - the construction of a new building or buildings; or
 - the expansion of any existing building of 10,000 square feet or more; or
 - the expansion of any existing building of fewer than 10,000 square feet if such expansion increases the square footage of such building by 30% or more, shall have:
 - a. at least 50% of the minimum green space plainly visible from at least one public vehicular entryway to the site from a public roadway; and
 - b. at least one fifth of the green space required for such project covered by plantings consisting of shade trees, evergreen trees, shrubbery, and other ground plantings, but not including grass. Any plantings in the interior of a parking lot shall count toward the one fifth requirement; and
 - c. at least 50% of the minimum required plantings as set forth in (2)(b) above comprised of areas of plantings plainly visible from at least one public vehicular entryway to the site from a public roadway.
 3. On-site parking or Parking lot development:

Every project which includes an on-site parking lot or is a parking lot development providing 50 or more parking spaces shall:

- a. have an area or areas in the interior of such lot of not less than 5% of the total parking lot area covered by plantings consisting of shade trees, evergreen trees, shrubbery and other ground plantings, but not including grass.
- b. provide a buffer strip in accordance with Section 475 and Section 750 (4) along each side of the parking lot which abut residential districts and improved public rights of way.

E. Preservation of Trees

1. The landscape plan shall indicate the techniques that will be used during construction to preserve existing trees to be retained or relocated on site.
2. The following tree protection measures shall be required on all sites:
 - a. Prior to construction activities, a sturdy fence or barrier should be erected around designated trees for protection at a minimum distance of one linear foot for every inch of DBH. No machinery, tools, chemicals, or temporary soil deposits may be permitted within this area.
 - b. Tunneling shall be used for utility placement in all areas where trees are to be preserved. If trenches must be used, they should be planned for minimal root damage.
 - c. Soil grading around preserved trees shall be avoided. A depth of no more than six inches of soil may be placed over tree roots within the protected area, nor shall soil be graded away.

F. Variances

Any variance from the requirements of this section may be requested from the Plan Commission for sites employing innovative landscaping treatments. Such innovations are encouraged and shall be favorably considered and recommended by the Site Review Committee as a positive attribute in connection with such a request.

Section 3150 Tree Fund Administration

- A. There is hereby established a Tree Fund, dedicated to the replacement and preservation of trees within the City of Valparaiso, to be administered by the Department of Parks and Recreation and used primarily for public spaces.
- B. This Fund shall be funded by payments made pursuant to Section 3150 and such other monies as may be allocated by the City or donated by any other source.
- C. The owner of private property, hereafter referred to as the applicant, may be eligible for reimbursement for planting trees pursuant to the following rules and procedures.
 1. To be eligible for reimbursement the tree shall be:
 - a. visible from a public way;
 - b. 2" caliper or greater; and
 - c. a species approved by the Valparaiso Parks Department.
 2. Prior to purchasing a tree, the applicant shall complete a form as supplied by the Department of Parks and Recreation requesting reimbursement;

3. Approval or denial of an application shall be based on compliance with requirements in (C)(1) of this section and on sufficient funds within the Tree Fund to remit reimbursement;
4. After the tree has been planted, the Department of Parks and Recreation shall verify compliance with requirements in (C)(1) of this section and remit to the applicant, 50% of the cost of such tree(s), but not to exceed \$100 per applicant per year.

Section 3155 Enforcement

The provisions of this Article shall be enforced in accordance with Section 1235 of the Valparaiso Zoning Ordinance.

Section 3160 Adjacent Landowner Responsibility

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the Tree Advisory Board. The person receiving the permit shall abide by standards set forth in this ordinance.

Section 3165 Tree Protection

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Tree Advisory Board shall notify the Board of Works.

Section 3170 Permits

No person except city officials, his/her agent, or a contractor hired by the City may perform any acts pertaining to this Ordinance without first obtaining a permit from the Street and Sanitation Department.

Section 3175 Enforcement

The Tree Advisory Board shall have the power to promulgate and enforce rules, regulations and specifications concerning trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the City.

Section 3180 Penalties and Claims

Violations – any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provision of the ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on City-owned property is caused, the cost of the repair or replacement, or the appraised dollar value of such tree, shrub, or other plant shall be borne by the party in violation.

Assessment of Claim – In the event that a nuisance is not abated by the date specified in the notice, the Board of Works is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was

located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

Exhibit A: Exempt Tree List

Ailanthus Altissima (also known as Tree of Heaven)	<i>Ailanthus altissima</i>
Elm <i>various</i>	<i>Ulmus sp.</i>
Black Locust	<i>Robinia pseudoacacia</i>
Black Pine (also known as Austrian Pine)	<i>Pinus nigra</i>
Box Elder	<i>Acer negundo</i>
Cottonwood	<i>Populus deltoides</i>
Mulberry	<i>Norus rubra and Morus alba</i>
Osage Orange (also known as Hedgeapple)	<i>Maclura pomifera</i>
Silver Maple	<i>Acer saccharinum</i>
Sumac	<i>Rhus typhina</i>
Weeping Willow	<i>Salix alba</i>
Purple Plum	<i>Prunus cerasifera</i>
Sand Cherry	<i>Prumus x cistena</i>
Nuisance Tree as defined within the ordinance	

Exhibit B: Priority Tree List

Red Maple	<i>Acer rubrum</i>
Sugar Maple	<i>Acer saccharum</i>
Shagbark Hickory	<i>Carya ovata</i>
Hackberry	<i>Celtis occidentalis</i>
River Birch	<i>Betula nigra</i>
Beech <i>various</i>	<i>Fagus sp.</i>
Ginkgo	<i>Ginkgo biloba</i>
Black Walnut	<i>Juglans nigra</i>
Sweet-gum	<i>Liquidambar styraciflua</i>
Tulip Poplar	<i>Liriodendron tulipifera</i>
Ironwood	<i>Ostrya virginiana</i>
Spruce <i>various</i>	<i>Picea sp.</i>
Eastern White Pine	<i>Pinus strobus</i>
Black Cherry	<i>Prunus serotina</i>
Oak <i>various</i>	<i>Quercus sp.</i>
White Fir	<i>Abies concolor</i>