

## Chapter 24 – Community Quality

### **Article 8 – TREE PRESERVATION AND REPLACEMENT**

#### **Section 24.160 – Purpose & Intent**

- A. The purpose of this chapter is to establish standards within the city that perpetuate the protection, preservation, and conservation of existing natural tree areas and landscaped spaces (“Woodlands”). Woodlands, vegetation and tree canopy signify important public resources that warrant protection for the benefit of the community and entire region. The provisions of this Chapter are deemed to be the minimum preservation standards necessary to preserve, maintain and enhance the tree canopy in the City of Portage, as well as to:
1. Discourage the unnecessary removal of trees and woodland resources in connection with the development of land to create a healthy and sustainable environment that promotes and protects a livable habitat for people and wildlife;
  2. Conserve energy, reduce urban heat islands associated with paved areas, mitigate climate change;
  3. Assist in the absorption of excess carbon dioxide in the atmosphere;
  4. Create a sound buffer to noise pollution;
  5. Provide protection against natural elements such as the sun, wind and rain;
  6. Protect the woodlands (including woodland resources) for their economic support of local property values when allowed to remain uncleared and/or unharvested in whole or in significant part, and for their natural beauty, character, and geological, ecological, or historic significance;
  7. Provide for the protection, preservation, proper maintenance, and use of trees and woodlands in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat
  8. Preserve and protect this local natural resource in the interest of the health, safety, and general welfare of the residents of the City of Portage in keeping with Article 1V, Section 52 of the Michigan Constitution of 1963, and the intent of the Michigan Natural Resources and Environmental Protection Act, PA 451 of 1994.

#### **Section 24.161 – Definitions**

- A. The following definitions shall apply in the interpretation of this Section:
1. *Building Envelope*: The area of a building enclosed or to be enclosed by the exterior walls of the principal building on the property, and as specified in Section 24-164(C)(2) and any other area designated in this Ordinance.
  2. *Caliper*: The diameter of a tree trunk measured six inches above ground level for trees up to four-inch diameter.
  3. *Commercial Nursery*: A licensed plant or tree nursery in relation to those trees planted and growing on the premises of the licensee, which are planted and grown for sale to the general public in the ordinary course of the licensee’s business.
  4. *Diameter Breast Height (DBH)*: The diameter in inches of the tree measured at four and one half feet above the existing grade. On multi-stem trees, the largest diameter stem shall be measured.
  5. *Director of Community Development, or Director*: The director of the Department of Community Development for the City of Portage or designee.
  6. *Drip Line*: An imaginary vertical line extending downward from the outermost tips of the tree branch to the ground.
  7. *General Agricultural*: The use of land for the growing and/or production of field crops, livestock and livestock products for the production of income.
  8. *Heritage Tree*: Any tree that stands apart from other trees due to size, form, species, or historic

significances. Criteria related to the size of a tree that defines it as a Heritage tree is listed in Section 42-164(K).

9. *Parcel*. All contiguous land situated in a lot or plot of land owned by a person.
10. *Person*. An individual, partnership, corporation, association, or other legal entity. For the purposes of this definition, an individual or entity shall mean and include all individuals in an immediate family, and all entities in which an individual has more than a ten percent (10%) interest.
11. *Protected Tree*. Any tree having a diameter breast height (DBH) of six (6) inches or greater and subject to the regulations of this Ordinance.
12. *Public Infrastructure Envelope*. The area designated for the installation of public infrastructure improvements (e.g. public street, sidewalks, retention/detention areas, and utilities) associated with development of a plat, site condominium or other land divisions.
13. *Remove or Removal*. The act of removing or terminating the life of a tree by digging up or cutting down, or the effective removal through damage that would reasonably be expected to ultimately terminate the life of a tree.
14. *Relocation*. The transplanting of a tree from one place to another.
15. *Tree*. Any self-supporting, woody plant with at least one well-defined stem and a species which normally grows to an overall height of fifteen (15) feet or more.
16. *Tree Survey*. A scaled drawing (one inch shall not exceed one hundred feet) which provides the following information: location of all protected trees plotted by accurate techniques, and the common and botanical name of those trees and their DBH.
17. *Undeveloped Property*. A parcel of land that does not contain improvements which require state or local approval, such as an occupancy or building permit. With respect to land which is partially improved by virtue of a building(s) or other improvement(s) located on a portion of the land, the portion of the land which does not contain the building(s) or other improvements(s) shall be considered undeveloped. The portion of the parcel containing buildings or improvements shall be delineated by the building or public infrastructure as defined herein.

#### **Section 24.162 – Jurisdiction**

Subject to the provisions of the City Charter and this Code, the Director, or designee, shall have general management and control over all tree operations and activities conducted under this Ordinance.

#### **Section 24.163 – Fees**

Fees associated with the administration of this Chapter shall be set by resolution of the City Council.

#### **Section 24.164 – Tree Removal Permit and Standards of Review**

- A. *Requirements*. A person shall not remove, relocate, or destroy, or cause to be removed, relocated, or destroyed, on any undeveloped property in the city, any protected tree without first obtaining a Tree Removal Permit subject to the exceptions enumerated in Section 24.164(D), "Exceptions". This requirement shall apply whether development of the property is intended or not
- B. *Plat or Site Plan Approval*. A subdivision plat, site condominium or site plan shall not be approved by the city until it has been reviewed and approved based upon the requirements for a Tree Removal Permit.
- C. *Site Development Standards*. In addition to other requirements of this Section, compliance with the following standards is required in all developments:
  1. *Development Sites*. The applicant shall designate on a plan the location of all proposed structures or buildings, private improvements, public infrastructure and the area adjacent to them to be disturbed. Such designation shall be made with the objective of preserving protected trees, and the Director shall have discretion to require reasonable adjustments in this regard during the approval process.

2. *Building Sites.* For each building site on a development site, the applicant shall designate on a plan the building envelope, which shall be the area enclosed or to be enclosed by the exterior walls of the proposed structure on the property, plus a reasonable area beyond such walls up to twenty (20) feet, so long as the building or structure is not in any required setback. With the objective of preserving trees, and also allowing reasonable development, the twenty (20) feet beyond each wall may be re-allocated so that the total distance on both sides of the exterior walls is forty (40) feet (for example, fifteen feet on one side and thirty-five feet on the other). The same treatment shall be authorized for areas beyond the front and back walls. For detached, single-family and two-family attached residential dwellings, the envelope may be extended to within ten (10) feet of the rear property line but no more than 40 feet as measured from the proposed dwelling unit.
  3. *Plats and Site Condominium or other Land Divisions Projects.* The applicant shall designate on a plan the public infrastructure envelope, which shall be the minimum area necessary to install all proposed public infrastructure improvements. Development involving individual lots/sites within a plat and site condominium or other land division projects will be reviewed upon application for a building permit.
  4. *Activities Within Building or Public Infrastructure Envelope.* Once approved by the city, a Tree Removal Permit shall not be required for construction of structures or improvements or other activities within a building or public infrastructure envelope.
  5. *Activities Outside the Building or Public Infrastructure Envelope.* Subject to the exceptions enumerated in this provision, and in Section 24.164(D) below, a tree removal permit shall be required to remove or cut a protected tree outside of the area designated for building or public infrastructure envelopes. However, the Director may issue an advanced written waiver of the requirement for a tree removal permit when it is shown that tree removal is necessary and there is no reasonable alternative in connection with private improvements such as driveways, utilities, off-street parking or other site improvements customarily required for the particular development. The applicant shall provide a tree survey and other documentation to support the request for a waiver. The Director may confer with other professional consultants in making decisions under this Section.
- D. Exceptions. Notwithstanding the requirements of Section 24-164(C), the following activities shall be permitted without a Tree Removal Permit, unless otherwise prohibited by statute or other ordinance provisions:
1. *Parcels Less Than One Acre that contain a habitable building.* ~~Except for heritage trees, t~~Tree removal on a parcel/lot, ~~including single family condominium common areas~~ of less than 1 acre containing a habitable building. This subsection shall not apply to a parcel if a previously existing building had been removed within the prior two-year period. For the purpose of calculating the size of a parcel, all contiguous land owned in common by one (1) owner, shall be included in determining total acreage. The term "one owner" in this provision shall include all persons in an immediate family, and all entities in which an individual has more than a ten percent (10%) interest.
  2. *Parcels Less Than five acres that contain a single-family detached or two family attached dwelling and zoned R-1A through R-1D or PD.* Tree removal on a parcel/lot of less than 5 acres, including single-family and two-family attached condominium common areas, containing a single-family detached or two family attached dwelling. This subsection shall not apply to a parcel if a previously existing building had been removed within the prior two-year period. For the purpose of calculating the size of a parcel, all contiguous land owned in common by one (1) owner, shall be included in determining total acreage. The term "one owner" in this provision shall include all persons in an immediate family, and all entities in which an individual has more than a ten percent (10%) interest.
  - 2.3. *Parcels five acres or greater that contain a single-family detached or two family attached dwelling and zoned R-1A through R-1D or PD if less than 50% of the existing trees will be removed in a 2-year period.* Tree removal on a parcel/lot, including single-family or two family attached dwelling condominium common areas of greater than 5 acres, containing a single-family detached or two family attached dwelling. This subsection shall not apply to a parcel if a previously existing building had been removed

within the prior two-year period. For the purpose of calculating the size of a parcel, all contiguous land owned in common by one (1) owner, shall be included in determining total acreage. The term "one owner" in this provision shall include all persons in an immediate family, and all entities in which an individual has more than a ten percent (10%) interest.

- ~~3.4.~~ *General Agricultural Use.* Tree removal or relocation occurring during use of land for agricultural operations. In determining whether the land has a bona fide agricultural use, the nature of the use, the duration of its operation, and other relevant factors shall be considered.
- ~~4.5.~~ *Commercial Nursery.* Tree removal or relocation occurring during use of land for the operation of a commercial nursery that is licensed with the State of Michigan and has previously been in operation on the parcel for at least one (1) year or more.
- ~~5.6.~~ *Emergencies.* Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or restore order, and where it would be contrary to the interest of the public, or to the health or safety of one (1) or more persons to defer cutting pending submission and processing of a permit application. Unless life and property would be threatened, this exception shall not apply unless and until the Director has approved the removal.
- ~~6.7.~~ *Governmental Agencies.* Tree trimming, removal, or relocation performed by, or on behalf of, governmental agencies and entities.
- ~~7.8.~~ *Public Utilities.* Repair or maintenance work performed by public utilities necessitating the trimming, removal or relocation of trees as authorized by state law or Public Service Commission rule.
- ~~8.9.~~ *Dead or Dying Trees.* Removal of dead or dying trees, provided the City has first confirmed in writing the dead or dying condition upon request of the property owner.
- ~~9.10.~~ *Invasive Tree Species.* Removal of invasive trees species including Black Alder (*alnus glutinosa*), Black Locust (*robinia pseudoacacia*), Norway Maple (*acer platanoides*), Russian Olive (*Elaeagnus angustifolia*) and Tree of Heaven (*ailanthus altissima*).
- ~~10.11.~~ *Tree Management.* Where a tree management plan prepared by a State of Michigan registered forester or other natural resource professional who is qualified to prepare such a plan is submitted to and approved by the Director, who may confer with a natural resource professional at his or her discretion, tree removal may occur in accordance with the plan without a permit. To qualify under this exception, tree management activity shall be for the purpose of reducing the density of trees so as to promote and maintain the health and viability of the remaining trees and/or for forest or woodland improvements generally; for promotion of wildlife habitat; for facilitation of appropriate forest-related or woodland-related recreational activities, including but not limited to hunting; and for other similarly acceptable silvicultural practices. The management plan shall include the means by which cut trees shall be removed from the property with the least possible damage to remaining trees.

#### E. Application for Tree Removal Permit.

1. *Application and Fee.* A person seeking a Tree Removal Permit must submit a written application to the Department of Community Development and pay the permit application fee as established by City Council resolution.
2. *Time of Application.* Application for a Tree Removal Permit shall be made prior to removing, cutting, or relocating trees or concurrent with the submission of a building permit application for a single-family residential dwelling, two-family attached dwelling, site plan, preliminary plat, or preliminary site condominium submittal.
3. *Permit Application Requirements.* The permit application shall include two (2) copies of a plan drawn to scale containing the following information:
  - a. *Property Dimensions.* The boundaries and dimensions of the property, and the location of any existing and proposed structure or improvement, and a statement identifying the type of structure or improvement.
  - b. *Inventory of Trees.* Location of all existing protected trees identified by common and botanical name.

Trees proposed to remain, to be transplanted, or to be removed shall be so designated. The Director or designee, may waive detailed tree inventory requirements for those areas of the site where proposed development will not impact regulated trees.

- c. **Tree Protection.** A statement describing how trees intended to remain will be protected during development.
  - d. **Easements and Setbacks.** Location and dimension of existing and proposed easements, as well as all setbacks required by the Zoning Ordinance.
  - e. **Grade Changes.** Designation and description of grade changes proposed for the property.
  - f. **Intended Tree Replacement.** A cost estimate for any proposed tree replacement program, with a detailed explanation including the number, size, and species.
  - g. **Tree Identification.** A statement that all trees being retained will be identified by some method before such work starts.
  - h. **Structures, Building Envelope, Utilities, and Driveway.** The plan shall show the structures, building envelope, utilities, and driveway as existing and/or proposed on the property.
4. **Other Requirements for Certain Developments.** For development projects involving the submission of a site plan, plat, site condominium or other land divisions, the applicant shall provide four (4) copies of a plan containing the same information required in Section 24-161E(3) above, and the following additional information:
- a. A topographical survey sealed by a registered engineer or registered surveyor shall be shown on the plat or other document required as part of the approval process.
  - b. A tree survey prepared by a State of Michigan registered forester, ISA Certified Arborist, or landscape architect for all areas for which a Tree Removal Permit is required.
5. **For All Developments.** For all developments, any proposed tree relocation or replacement, consistent with Section 24-164.H, Tree Relocation or Replacement, shall be specified in the application, including a drawing and detailed explanation of the proposal.

F. Application Review Procedure.

1. **Administrative Review.** The Director shall review the Tree Removal Permit application to verify that the applicant has provided all required information. Completed applications shall be referred to the appropriate consultants, as necessary. Upon request of either the applicant or the Director, the Director may conduct a field inspection or review meeting. The City personnel involved in the review shall submit their reports and recommendations to the Director.
2. **Reviewing Authority.** The grant or denial with any conditions deemed necessary of the Tree Removal Permit application shall be the responsibility of the Director following the right and opportunity of the Director to confer with natural resource professionals. The decision to grant or deny a permit shall be governed by the review standards enumerated in 24-164(G), below.
3. **Denial of Tree Removal Permit.** Whenever an application for a Tree Removal Permit is denied, the permit applicant shall be notified, in writing, of the reasons for denial. Denial of a tree removal permit may be appealed to the City Council in accordance with the provisions of Section 24-166.
4. **Tree Removal Permit.** Whenever an application for a Tree Removal Permit is granted, the Director shall:
  - a. **Conditions.** Attach to the granting of the permit any reasonable conditions considered necessary to ensure the intent of this Ordinance will be fulfilled and to minimize damage to, encroachment in, or interference with natural resources and processes within wooded areas, including, without any limitation, the trees to be preserved.
  - b. **Term of Permit.** A tree removal permit issued under this paragraph shall be null and void if commencement of work permitted under the permit has not commenced within twelve (12) months. A maximum of eighteen (18) months is permitted to complete tree removal, relocation, and replacement activities, ensuring that plantings occur at correct times of the year. A six (6) month extension may be granted upon written request to the Director. The request must be received thirty (30) days before expiration of the original permit.

- c. **Security.** Require the permit grantee to deposit with the city a cash or corporate surety bond or irrevocable bank letter of credit in an amount reasonably determined necessary by the Director to ensure compliance with the Tree Removal Permit conditions and this Ordinance in regard to relocation and replacement of trees. The security shall only be required if the permit grantee is to perform the relocation and/or replacement six (6) months after issuance of a permit, or to perform the relocation and/or replacement after issuance of a Certificate of Occupancy. The security requirement may also be waived by the Director if requiring the security would cause undue financial hardship on the permit grantee or other reasons related to the site and/or development that make security unnecessary.

G. **Application Review Standards.** The following standards shall govern the granting or denial of an application for Tree Removal Permit, including replacement or relocation:

1. ***Limitation.*** Removal or relocation of protected trees shall be limited to instances where:
  - a. **Necessary for Construction.** Removal or transplanting is necessary for the construction of a building, structure, or other site improvement. The permit applicant has the burden of showing that there is no feasible and prudent location alternative on site for improvement; or
  - b. **Diseased or Dying Trees.** The tree(s) is demonstrated to the Director to be diseased or dying or in danger of falling; located too close to existing or proposed buildings or structures; interfere with existing utility service or drainage; create unsafe vision clearance; or be in violation of other ordinances or regulation.
  - c. Removal or relocation of the tree is consistent with good forestry practices or if it will enhance the health of remaining trees.
2. ***Preservation and Conservation.*** Tree preservation and conservation shall be of paramount concern and importance; provided, however, that an application shall not be denied solely because of the presence of trees on the site.
3. ***Development Alternatives.*** Preservation and conservation of wooded areas, trees, woody vegetation, wildlife, and related natural resources and processes shall have priority over development when there are feasible and prudent location alternatives on site for proposed buildings, structures, or other site improvements.
4. ***Diversity of Species.*** A diversity of tree species shall be maintained where feasible.
5. ***Relocation or Replacement.*** The proposed activity shall include necessary provisions for tree relocation or replacement, in accordance with Section 24.164(H), and tree protection, in accordance with Section 24.164(I) and be contained in the application as required by Section 24.164(E).
6. In determining replacement or relocation under this section, each site shall be evaluated as to the impacts of tree removal on adjoining property, aesthetics of the site and surrounding area, air quality, noise abatement, or any other site specific considerations.
7. The tree and surrounding area shall be evaluated for the quality of the involved area by considering the following:
  - a. Soil quality as it relates to potential tree disruption.
  - b. Habitat quality.
  - c. Tree species (including diversity of tree species).
  - d. Tree size and density.
  - e. Health and vigor of tree stand.
  - f. Understory species and quality.
  - g. Other factors such as value of the trees as an environmental asset (i.e., cooling effect, etc.).

H. **Tree Relocation or Replacement**

1. ***Requirement Established.*** For each protected tree required to be preserved under the terms and standards set forth above, and which is permitted to be removed by permit granted under this Section, the applicant

shall replace or relocate trees according to the replacement tree requirements set forth below.

2. Replacement Tree Requirements.

- a. Replacement trees shall have shade potential and/or other characteristics comparable to the removed trees, shall be State Department of Agriculture Nursery Grade No. 1 or better, and must be approved by the city prior to planting. A list of approved replacement trees is included in Section 24.164(K). All replacement trees shall be staked, fertilized, mulched, watered, and be guaranteed by the applicant for two (2) years. All plantings must be done in accordance to American National Standards Institute (ANSI) A-300 part 6.
- b. Trees usable for replacement trees may be transplanted on site using appropriate and accepted procedures and precautions. As outlined in ANSI A-300 part 6
- c. For deciduous and evergreen trees, replacement shall be on a one-for-one basis. For example, for each tree removed, a replacement tree shall be planted. All replacement trees shall have a caliper size of at least two and one half (2.50) inches. All evergreen replacement trees shall be at least six (6) feet tall.
- d. A heritage tree shall be replaced at a rate of one (1) inch of replacement tree for each two-four inches of DBH inch of heritage tree removed. The minimum size of a replacement tree is specified in Section 24-164(H)(2)(c) above. For example, a 48-inch heritage tree could be replaced by 10-6 two and one half (2.50) inch trees. This replacement requirement may be waived if, the health/condition of the tree is such that it should not be counted. The replacement should be of diversified species.
- e. The Director shall be authorized to modify or waive a portion or all of the on-site tree replacement requirements when site factors, tree condition, development requirements or other reasons contained in Section 24.164(G), Application Review Standards, preclude reasonable actions to conform with this Section.
- f. If the Director waives the on-site tree replacement requirement, the permit grantee shall contribute to the City of Portage Tree Fund pursuant to Section 24-164(L) in an amount reasonably related to the cost of the trees, including installation, which would have been planted.

3. Replacement Tree Location. On-Site Relocation or Replacement. To the extent feasible or desirable, trees shall be relocated or replaced on site and within the same general area as trees removed, provided that survival shall not be jeopardized by improvements or activities.

4. Tree Preservation Credits. Tree preservation credits shall be given for trees preserved within the developed portion of a parcel, lot or building site.

a. The number of credits awarded for preserving on-site trees must be in accordance with the table below.

Tree Preservation Credits	
Size of Tree (DBH)	Number of Trees Credited
<u>Greater than 24 inches</u>	<u>4</u>
<u>12 inches to 24 inches</u>	<u>3</u>
<u>6 inches to less than 12 inches</u>	<u>2</u>
<u>2 inches to less than 6 inches</u>	<u>1</u>

- 3. -
- b. Trees proposed to be retained on-site must be shown on the plan with the type and size noted.
- c. If those trees identified on the plan to be preserved and intended to meet the minimum requirements of this section are cut down, destroyed, damaged or excavated at the dripline, as determined by the Director, shall be replaced with trees that meet ordinance requirements.

I. Tree Protection During Construction. During construction activity, the following is required:

- 1. During the development of a property, the person who owns the property shall be responsible for the erection of any and all barriers or protective guards necessary to protect any existing or installed tree(s) from damage both during and after construction.
- 2. Trees to be preserved during the development of the property shall be protected during construction. Trees within 20 feet of construction activities must be protected by a wooden snow fence, or similar type fence,

- Formatted: Font: 9 pt
- Formatted: Centered
- Formatted Table
- Formatted: Font: 9 pt
- Formatted: Centered
- Formatted: Font: 9 pt
- Formatted: Font: 9 pt
- Formatted: Centered

around the drip line of each tree to prevent compaction of soil and other damage to the tree by equipment or materials. The location of the fence may be adjusted to permit reasonable construction activities. No excess topsoil, construction materials, debris, or chemicals are allowed within the protected area of each tree. In addition, no parking of vehicles, on-site offices, or machinery is allowed inside the protected area.

3. Wherever a change of ground grading is planned, the trees to be preserved shall be protected by a retaining wall, placed at the drip-line so as to preserve the existing grade for the roots.
4. When trenching alongside existing trees is unavoidable, the trench must be one (1) foot for every one (1) inch tree caliper, as measured four (4) feet above grade, away from the base of the existing tree to be preserved.
5. Construction pruning and root pruning of trees directly impacted by construction may be required for preservation of existing trees. These measures must be indicated on the tree survey plan or the submitted application for permit.
6. The developer, builder, contractor and/or applicant shall be required to replace trees originally intended to be preserved when such trees are damaged during construction.

J. Display of Permit. Stop Work. Certificate of Occupancy.

1. *Display of Permit.* The permit grantee shall conspicuously display the permit on site and shall display the permit continuously while trees are being removed or replaced or while activities authorized under the permit are performed. The permit grantee shall allow city representatives to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation of this Section.
2. *Stop Work. Withholding Certificate of Occupancy.* The Director may issue a stop work order if this Section is being violated, or if the permit grantee has failed to conform with any conditions attached to a Tree Removal Permit. In addition, the Director may withhold issuance of a Certificate of Occupancy until a violation or conformance with a condition has been cured; provided, however, the Director may, issue a temporary Certificate of Occupancy, conditioned upon the posting of reasonable security coupled with an agreement in a form approved by the city guaranteeing the cure of a violation or condition.

K. Recommended Tree Species and Heritage Trees. The following is a list of trees approved for planting/relocation. The size criteria (DBH) to classify a tree species as a Heritage tree is shown in the right column:

COMMON NAME	BOTANICAL NAME	Heritage Tree (DBH)
All other Trees	-----	36" or greater
Basswood, American	Tilia occidentalis	24"
Beech, American	Fagus grandifolia	24"
Birch	Betula	24"
Black Walnut	Juglans nigra	24"
Blue-Beech	Carpinus caroliniana	24"
Chestnut	Castanea	10"
Crabapple/Hawthorne	Malus /Crataegus	12"
Dogwood, Flowering	Cornus florida	6"
Eastern Red Cedar	Juniperus virginiana	12"
Fir	Abies	24"
Ginkgo	Ginkgo	18"
Hackberry	Celtis occidentalis	18"
Hemlock	Tsuga	24"
Hickory	Carya	24"
Hop-Hornbeam	Ostrya virginiana	8"
Kentucky Coffeetree	Gymnocladus dioica	20"
Larch/Tamarack	Larix	18"
London Planetree/Sycamore	Platanus	24"
Maple (Red)	Acer rubrum	24"
Maple (Silver)	Acer saccharinum	36"
Maple (Sugar)	Acer saccharum	24"
Maple (Box Elder)	Acer negundo	36"
Oak (All species)	Quercus	24"
Pine (All species)	Pinus	30"
Poplar	Populus	36"
Redbud	Cercis canadensis	6"
Sassafras	Sassafras albidum	15"
Sweetgum	Liquidambar styraciflua	24"
Tulip Poplar	Liriodendron tulipifera	24"

**L. City of Portage Tree Fund.**

1. A Tree Fund is hereby created as the depository for all monies proposed to be paid by applicants in lieu of tree replacement, as provided in this Ordinance.
2. The City shall administer the Tree Fund, with the purpose of planting of trees within the City. In the administration of the Tree Fund, the city shall, if reasonably feasible, attempt to purchase and install trees within a reasonable proximity of the development in connection with which funds have been paid to the Tree Fund.

**Section 24.165 – Prohibited Acts.** No person shall:

- A. Prune trees by “topping or hat racking” within the City. “Topping or hat racking” means an unacceptable pruning practice capable of injuring trees through the reduction of a tree’s height and/or size by pruning live branches and leaders to stubs, without regard to long-term tree health or structural integrity. No more than twenty-five percent (25%) of a single tree’s canopy shall be removed in any one (1) year. All pruning must be completed in accordance with ANSI A-300 part 1.
- B. Remove more than ten (10) percent of tree limbs, branches.

- C. Deposit, store or maintain any stone, brick, sand, concrete, lumber, tile, pipe, equipment or other material that reasonably may be expected to impede the free passage of water, air or fertilizer to the roots of any tree.

**Section 24.166 – Appeals**

Appeals. A person aggrieved by a final decision of the Director under this Ordinance may file an appeal with the City Council specifying the grounds thereof within 30 days of receiving notice of the Director's decision.

1. The Director shall forthwith transmit to the City Council all papers constituting the record upon which action appeal was taken. The City Council shall hear the appeal within a reasonable time.
2. In hearing the appeal, the City Council shall review only the applicable portion of the decision in question, and in making the determination shall apply the same standards and method of review used by the Director. Where the City Council finds an error in the order, requirement, permit, decision or refusal made by the director in carrying out this Ordinance, it may reverse the decision of the Director and make its own findings, in accordance with the procedures of this Ordinance used by the Director.

**Section 24.167 – Severability**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

**Section 24.1687 – Violations**

A violation of this Ordinance shall be a municipal civil infraction punishable by fine according to city ordinance. In addition to any other remedy available, (including, but not limited to, cost of tree replacement and application fees) the city may initiate civil litigation to achieve compliance with the provisions of this Ordinance.