

**ORDINANCE NO. 18-03-05**

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 6 OF TITLE 9  
OF THE RIVERWOODS VILLAGE CODE**

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**WHEREAS**, the Village of Riverwoods (the “Village”) is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the health, safety and welfare of its citizens; and

**WHEREAS**, the President and Board of Trustees of the Village adopted Ordinance Nos. 06-3-7, 04-9-9 and 12-1-1, which were codified in the Riverwoods Village Code as the Riverwoods Tree Preservation Ordinance; and

**WHEREAS**, the President and Board of Trustees of the Village adopted Ordinance No. 05-2-2, which was codified in the Riverwoods Village Code as the Riverwoods Woodland Protection Ordinance; and

**WHEREAS**, the Plan Commission of the Village held a public hearing on January 11, 2017, to consider amending the text of the Riverwoods Zoning Ordinance by adopting the provisions set forth below, and such hearing was held in all respects in accordance with law, after which the Plan Commission has transmitted its report to the President and Board of Trustees recommending the adoption of the text amendment; and

**WHEREAS**, the President and Board of Trustees of the Village find that adopting the text amendment as provided below will establish a comprehensive program for native tree protection and protection of native woodlands in the Village and facilitate the development of ecological mitigation plans that can be implemented more effectively throughout the Village and find that the adoption of the text amendment would protect the health, safety and welfare of the citizens of the Village.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF RIVERWOODS, as follows:**

**SECTION ONE:** The statements and findings contained in the preamble to this Ordinance are found to be true and correct, and are hereby adopted as part of this ordinance. This Ordinance is adopted pursuant to the home rule powers of the Village.

**SECTION TWO:** The provisions of Chapter 6 of Title 9 of the Riverwoods Village Code are hereby amended and restated in their entirety as follows:

CHAPTER 6  
TREE AND WOODLAND PROTECTION ORDINANCE

SECTION

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**9-6-1: TITLE:** This chapter 6 of title 9 shall be known, cited and referred to as the *Riverwoods Tree and Woodland Protection Ordinance*.

**9-6-2: FINDINGS OF THE BOARD OF TRUSTEES:** The findings of the Board of Trustees adopted in Ordinance No. 05-2-2, on February 1, 2005, are restated as subsections A through D below, and the Board of Trustees further adopts the findings in subsections E, F and G below. The terms “native trees” and “native woodlands”, when used in these findings, shall have the meanings given in Section 9-6-3 below.

- A. The Plan Commission of the Village of Riverwoods on June 3, 2004 conducted a public hearing on the question of adopting a zoning text amendment under the Riverwoods Zoning Ordinance for the purpose of protecting woodlands and submitted its report to the Board of Trustees recommending that a woodland protection ordinance be considered to protect woodland areas in the village.
- B. The Board of Trustees conducted a public hearing and town meeting on December 7, 2004, and received testimony at that time from the Mr. Charles Stewart, President, Urban Forest Management, Inc., who served

as village forester beginning in 1976; Dr. George Ware, Ph.D., Dendrologist Emeritus at the Morton Arboretum; Mr. Steve Swanson, Director of the Kennecott Grove National Historic Area in Glenview, Illinois; Mr. Mark O’Leary, M.S., Senior Ecologist with Applied Ecological Services, Inc., an ecological consulting, contracting and restoration firm; and Mr. Patrick Glenn, P.E., Gewalt Hamilton Associates, Inc., the engineering firm serving as village engineer (“GHA”). At such town meeting, GHA presented its report entitled “Report on Woodland/Turfgrass Hydrology, Using NRCC TR-55 Hydrological Methods”, dated December 2004, prepared by GHA (the “GHA Report”).

- C. The urban forest research unit of the USDA Forest Service, Northeastern Research Station in Syracuse, New York, was established in 1978, to investigate the effects of urban forests and their management on human health and environmental quality, and it has developed The Urban Forest Effects (UFORE) model, which model is used to quantify the following:
- Urban forest structure by land use type (e.g., species composition, tree density, tree health, leaf area, leaf and tree biomass, species diversity, etc.);
  - Hourly amount of pollution removed by the urban forest, and its associated percent air quality improvement throughout a year. Pollution removal is calculated for ozone, sulfur dioxide, nitrogen dioxide, carbon monoxide and particulate matter (<10 microns);
  - Hourly urban forest volatile organic compound emissions and the relative impact of tree species on net ozone and carbon monoxide formation throughout the year;
  - Total carbon stored and net carbon annually sequestered by the urban forest;
  - Effects of trees on building energy use and consequent effects on carbon dioxide emissions from power plants;
  - Compensatory value of the forest, as well as the value of air pollution removal and carbon storage and sequestration;
  - Tree pollen allergenicity index;
  - Potential impact of Gypsy moth and Asian longhorned beetle infestation;
  - Tree Transpiration.

The urban forest research unit of the USDA Forest Service, Northeastern Research Station in Syracuse, New York, has modeled numerous cities in the United States and published its results quantifying the direct, favorable ecological and financial benefits of maintaining urban forests.

- D. After reviewing the expert testimony and reports presented to the Board of Trustees and the published research available to quantify the economic benefits of urban forests, the Board of Trustees adopts the following findings as the basis for adoption of the Riverwoods Woodland Protection Ordinance and intends that the ordinance be interpreted in the light of such findings:
1. Approximately 90% of the areas within the village's R1, R2 and R3 single family residential zoning districts (excluding subdivisions developed as planned unit developments) are located within the mixed-hardwood forest and woodland landscape that is the characteristic natural ecological system in the village.
  2. In the village's woodland ecosystem, the canopy, understory and ground plane (herbaceous) levels each have characteristic species.
  3. The natural woodland ecology in the village is modified and pressured by human activity and development, the presence of deer herds, in particular, and other wildlife and insect populations, and the proliferation of non-native, invasive species, such as buckthorn and garlic mustard. Human activity in the form of replacing native understory and ground plane plants with turfgrass is also a negative factor in the maintenance of healthy woodlands because each of the three native components of the woodlands – the canopy, understory and ground plane – is necessary for the continued regeneration of native trees and plants.
  4. Since 1976, the village's woodlands have diminished in quantity and in the quality of the plant community as a result of the pressure factors that are described above. As a result, the village's woodlands have become more fragmented and have suffered a loss in the ability to regenerate the more desirable species of trees and plants of the native landscape.
  5. For the natural woodland ecology in the village to remain self-sustaining, it is necessary to take steps to reduce the further loss and fragmentation of woodland areas resulting from human activity in order that the woodland trees and plants can more readily resist the pressure factors resulting from non-human factors.

6. The village should continue to monitor the work of the Lake County Forest Preserve District in maintaining the deer population at a level that can be supported by the environment; the village should continue to work with other governmental units to minimize and control infestations of gypsy moth, Asian longhorned beetles and similar pests; and the village should continue to support woodland restoration by educational efforts and by providing assistance to residents seeking to eliminate non-native, invasive species from their properties. The actions referred to in this section should be coordinated with the provisions in this ordinance regulating the removal of native trees and woodlands to establish the best possible conditions for the health of the woodlands.
7. The woodlands in the village, as demonstrated in the GHA Report, significantly reduce the volume and rate of stormwater runoff produced under various land use conditions in the village in comparison to the volume and rate of stormwater runoff in turfgrass lawn areas. The GHA Report is incorporated in the Tree and Woodland Protection Ordinance as if fully set forth herein. Lessening the removal of herbaceous plants and understory trees and the substitution of turfgrass in place thereof will reduce stormwater runoff and lessen the severity of local flooding in the village.
8. The maintenance of a healthy woodland environment in the village provides the following benefits: shade and cooling; control of erosion; filtering of water pollutants from stormwater; recharging of aquifers used by residents for drinking water; replenishment of the groundwater table; maintenance of flows into wetlands and streams; cleansing of air of pollutants; mitigation of global warming by absorbing greenhouse gases; and promotion of a biologically diverse community of micro-organisms, plants and animals, protecting some species from extinction while preserving genetic diversity. The Urban Forest Effects (UFORE) model developed by the urban forest research unit of the USDA Forest Service, Northeastern Research Station in Syracuse, New York, has been used to quantify the dollar benefits of urban forests, and such models indicate that there is a significant quantifiable benefit from woodlands in respect of the benefits described above, and such findings demonstrate that the village's urban forest cover produces significant quantifiable benefits.
9. The regulations proposed in this ordinance, in the severest case of applicability, nevertheless will allow for a building envelope which is

sufficient for the construction of a main dwelling and multiple combinations of accessory uses (such as a tennis court and swimming pool and an accessory building) that, in size and extent, would be comparable to intensely developed, existing residential properties in the village except in the degree to which woodlands have been removed. The protection of woodlands will promote higher property values for woodland areas in the village. The regulations proposed in this ordinance will not unreasonably restrict development nor constitute an arbitrary and capricious exercise of municipal powers.

10. The preservation of woodland areas in the village will provide many essential benefits to the community as a whole, as described in the foregoing sections, and, accordingly, the adoption of a long-term policy of preserving woodland areas is necessary to safeguard, protect and promote the health, safety and welfare of the current and future inhabitants of the village and surrounding areas.

E. The protection of native woodlands depends especially on the adoption of a long-term policy of promoting the regeneration of native trees which populated the native woodlands once prevalent throughout the village. In particular, the preservation and regeneration of native trees in the village will promote the repair of ecologically disturbed areas and the gradual restoration of native woodlands. The adoption of these regulations, while still allowing for the reasonable improvement of land within the village, is intended to accomplish, where possible, the following specific objectives:

1. To protect native trees as an important public resource enhancing the quality of life and the general welfare of the village and enhancing its unique character and physical, historical, and aesthetic environment;
2. To protect, maintain, and enhance the ecological quality and long-term viability of native woodlands and the essential character of those areas throughout the community;
3. To enhance and preserve the air quality of the village through the filtering effect of trees on air pollutants;
4. To reduce noise within the village through the baffle and barrier effect of trees on the spread of noise;
5. To reduce topsoil erosion through the soil retention effect of tree roots;

6. To reduce energy consumption through the wind break and shade effects of trees when they are properly preserved on the lot;
  7. To preserve and enhance nesting areas for birds and other wildlife which in turn assist in the control of insects;
  8. To reduce storm water runoff and the costs associated therewith and replenish ground water supplies; and
  9. To protect and increase property values.
- F. Applied Ecological Services, Inc. (AES), as village ecologist, has advised the village on the general location of native woodland communities. In 2015-2016, the village ecologist conducted various types of inventories of the vegetation communities within the village to map vegetation community boundaries, such as native woodlands (mesic savanna, northern flatwoods, mesic woodland, dry-mesic woodland, and floodplain forest), wet prairie and marsh complexes.
1. The village ecologist has prepared a report dated May 2016, summarizing these inventories, the historic and current ecological conditions of each vegetation community and to the extent possible, floristic quality of these areas, and developed a summary of recommended management tasks for managing the vegetation communities imperiled by various ecological and human induced factors (the “Natural Community and Green Infrastructure Report”).
  2. The village has adopted voluntary ecological cost-share programs whereby the stewardship and management activities of residents in woodland areas are eligible to be partially reimbursed by the village in furtherance of the recommended goals set forth described in the Natural Community and Green Infrastructure Report.
- G. The village caused multi-spectral aerial imaging of the entire village to be performed on April 8, 2017, in accordance with technical specifications relied upon by restoration ecologists. The village ecologist applied such imaging to delineate the boundaries of native woodlands on parcels throughout the village and to generate an individual woodland delineation parcel map for each parcel, each dated April 8, 2017, indicating the parcel acreage, woodland acreage, and percent woodland cover for such parcel (a “woodland delineation parcel map”).

**9-6-3: AUTHORITY:** This chapter is adopted under authority vested in the village by and pursuant to its home rule powers and other applicable laws of the State of Illinois.

**9-6-4: INTENT AND PURPOSE:** The purpose of the Tree and Woodland Protection Ordinance is to protect native trees and native woodlands within the village by regulating and limiting their removal in order to safeguard their benefits for this and succeeding generations. The protection and regeneration of native trees will promote the repair of ecologically disturbed native woodlands and the gradual restoration of the native woodlands once prevalent throughout the village. The intent of the Tree and Woodland Protection Ordinance is to accomplish the purposes set forth herein while ensuring that property owners can continue to enjoy a reasonable return on their properties and are provided the maximum latitude to use their parcels for purposes not inconsistent with these regulations. Periodic review of these regulations should be undertaken by the village to evaluate whether this intent is being realized.

**9-6-5: DEFINITIONS:** The following words and phrases shall have the meanings set forth below when used in this chapter. In administering or enforcing the provisions of this chapter, the village may call on the services of the village ecologist and/or village forester, and any reference in this chapter to one shall be deemed to include the other.

**CONDITION RATING (for TREES):** An evaluation of tree health and structural issues, with condition rating 1 being the highest rating, and condition rating 6 being the lowest rating of tree health and structure. The characteristics of trees having condition ratings 1-6 are summarized below.

- Condition 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.
- Condition 2: Good - the tree is typical of the species and/or has less than 20% deadwood in the crown, only one or two minor problems that are easily corrected with normal care.
- Condition 3: Fair - the tree is typical of the species and/or has less than 30% deadwood in the crown, one or two minor problems that are not eminently lethal to the tree, and no significant decay or structural problems, but the tree may need remedial care in order to minimize the impact of future stress and to ensure continued health.
- Condition 4: Average - the tree is typical of the species but has some problems such as 30% to 50% deadwood in the crown, decay or structural defects, insects, disease or other problems that can be eminently 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.

Condition 5: 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.

Condition 6: Dead – less than 10% of the tree shows signs of life.

**CRITICAL ROOT ZONE:** The area inscribed by a circular line on the ground beneath a tree having as its center point the center of the trunk of the tree and a radius equal to one foot (1') for every inch of Diameter at Breast Height (DBH).

**DAMAGE:** The taking of any direct or indirect action that causes, or is reasonably likely to cause, the death of a tree or a significant loss of a tree's structural integrity including, without limitation, destruction, poisoning, carving, mutilating, girdling, severing the main trunk, leader, or large branches or roots, removing any portion of the bark from the main trunk, leader, or large branches, touching with live wires, crushing or exposing the roots, digging or drilling any hole or trench within the critical root zone, filling with soil or other materials within the critical root zone, compacting a substantial portion of the soil in the critical root zone, or moving a tree to another location. Without limiting the foregoing, "damage" does not include the pruning of trees in accordance with "Standard Practices For Tree, Shrub, And Other Woody Plant Maintenance" (ANSI A300) and "Tree-Pruning Guidelines" published by the International Society of Arboriculture or similar standards and guidelines from time to time recommended for residents of the village by the village forester or village ecologist. Damage does include and is deemed to occur when more than 20% of the critical root zone of any tree is damaged or removed or when more than 20% of the critical root zone of any tree is covered by three (3) inches or more of mulch or fill.

**DESIRABLE PROTECTED TREE:** Any tree located in the village that would be only a regulated tree if not for the fact that the tree has a condition rating of 1, 2, 3 or 4, and is one of the following species listed in the table below.

<b>Desirable Protected Trees</b>		
<b>Scientific Name</b>	<b>Common Name</b>	<b>Classification</b>
<i>Acer saccharum</i> (≥ 15" DBH only)	Sugar maple (≥ 15" DBH only)	Canopy Tree
<i>Aesculus glabra</i>	Ohio Buckeye	Subcanopy Tree

<i>Amelanchier sp.</i>	Serviceberry species	Subcanopy Tree
<i>Betula sp.</i>	Birch species	Subcanopy Tree
<i>Cephalanthus occidentalis</i>	Buttonbush	Understory Tree
<i>Cercis Canadensis</i>	Redbud	Subcanopy Tree
<i>Cornus stolonifera</i>	Redosier Dogwood	Multi-Stem Understory Tree
<i>Cornus alternifolia</i>	Pagoda Dogwood	Subcanopy Tree
<i>Corylus americana</i>	American Hazel	Multi-Stem Understory Tree
<i>Crataegus sp.</i>	Hawthorn species	Subcanopy Tree
<i>Euonymus atropurpureus</i>	Eastern Wahoo	Subcanopy Tree
<i>Ilex verticillate</i>	Winterberry Holly	Multi-Stem Understory Tree
<i>Juglans nigra</i>	Black Walnut	Canopy Tree
<i>Linden benzoin</i>	Spicebush	Multi-Stem Understory Tree
<i>Pinus strobus</i>	Eastern White Pine	Canopy Tree
<i>Prunus virginiana</i>	Chokecherry	Multi-Stem Understory Shrub
<i>Sambucus canadensis</i>	Elderberry	Multi-Stem Understory Shrub
<i>Stapylea trifolia</i>	Bladdernut	Multi-Stem Understory Shrub
* <i>Viburnum sp.</i>	Viburnum species	Multi-Stem Understory Shrub
<i>Tilia americana</i> (≥15" DBH only)	Basswood (≥15" DBH only)	Subcanopy Tree

\*Does not include *Viburnum prunifolium* (Blackhaw Viburnum).

**DIAMETER BREAST HEIGHT ("DBH"):** The diameter of the trunk of a tree measured in inches, at a point four and one-half feet above the existing grade at the base of the tree. DBH is a commonly accepted standard used by arborists to measure the size of trees.

**ECOLOGICAL COST SHARE PROGRAMS:** The programs from time to time authorized by the village to further the ecological management and stewardship of native woodlands by village residents.

**ECOLOGICAL MITIGATION PLAN:** A legally enforceable plan and agreement between an owner and the village, under which the owner agrees to perform ecological restoration in the form of various ecological management strategies that are intended to establish, protect, or enhance native woodlands and other areas located on such owner's parcel, as specified in the mitigation plan document prepared by the village ecologist.

**HIGHLY DESIRABLE PROTECTED TREE:** Any tree located in the village that would be only a regulated tree, if not for the fact that the tree has a condition

rating of 1, 2, 3 or 4, and is one of the species listed in the table below.

<b>Highly Desirable Protected Trees</b>		
<b>Scientific Name</b>	<b>Common Name</b>	<b>Classification</b>
<i>Acer rubrum</i>	Red Maple	Canopy Tree
<i>Carya sp.</i>	Hickory species	Canopy Tree
<i>Carpinus caroliniana</i>	Blue Beech/Musclewood	Subcanopy Tree
<i>Celtis occidentalis</i>	Common Hackberry	Canopy Tree
<i>Hamamelis virginiana</i>	Common Witchhazel	Subcanopy Tree
<i>Ostrya virginiana</i>	Ironwood	Subcanopy Tree
<i>Platanus occidentalis</i>	American Sycamore	Canopy Tree
<i>Quercus sp.</i>	Oak species	Canopy Tree
<i>Virbunum prunifolium</i>	Blackhaw Viburnum	Subcanopy Tree

**NATIVE TREE:** For purposes of this ordinance, any tree in the village that is either a desirable protected tree or a highly desirable protected tree indigenous to the area and important to the native woodland community in which they are found.

**NATIVE WOODLANDS:** Areas in the village consisting of one or more woodland plant communities, transitioning (west to east) from floodplain woodland near the Des Plaines River to mesic woodland, dry-mesic woodland, then savanna, with northern flatwoods scattered throughout and populated by native trees and having a minimum area of 400 square feet, consisting of at least a canopy layer comprised of native tree species and natural/unmaintained ground (herbaceous) layer that allows for the regeneration and sustainability of the woodland over time. For purposes of this ordinance, northern flatwoods and savanna are considered woodland communities.

**OWNER:** The person or entity legally or beneficially owing real estate in the village undertaking any actions with respect to regulated trees on such real estate which are regulated by the provisions of this chapter. Any reference to owner in this chapter includes the family members, guests, tenants, licensees, contractors, agents, officers, directors, shareholders and employees of the person or entity legally or beneficially owing the real estate in question under the provisions of this chapter.

**PROTECTED WOODLAND:** The area of native woodland determined for each parcel in the village shown on the woodland delineation parcel map for such

parcel as of April 8, 2017, which area may be expressed as a percentage of the total land area of such parcel, but subject to adjustment in accordance with Section 9-6-9 below. For any parcel, except as otherwise provide in this chapter, the protected woodland, subject to such adjustment, is the amount of native woodland on such parcel documented as of April 8, 2017.

**REGULATED TREE:** Any tree located in the village, together with its root system, having a primary stem or trunk that is at least one and one-half inches (1.5") DBH or greater and is at least six feet (6') tall, and any multi-stemmed variation (where all stems are less than 1.5" DBH) of the tree species that is at least six feet (6') tall. For mitigation purposes and calculating tree mitigation fees, each multi-stemmed tree will be considered to have a two-inch (2") DBH.

**REMOVE OR REMOVAL (with respect to Regulated Trees):** The physical detachment or elimination of a regulated tree, or the effective detachment or elimination of a regulated tree, through damage, cutting of major vegetation to the ground, complete extraction or killing by spraying, girdling, root cutting, or otherwise (but not the proper pruning of trees in accordance with "Standard Practices For Tree, Shrub, And Other Woody Plant Maintenance" (ANSI A300) and "Tree-Pruning Guidelines" published by the International Society of Arboriculture or similar standards).

**REMOVE OR REMOVAL (with respect to Protected Woodlands):** The removal and/or replacement of protected woodland on a parcel, that consists of physically clearing or otherwise removing or replacing any of the layers (ground, shrub, subcanopy and canopy) of the protected woodland by mowing, mulching, cutting, tilling or planting turf grass, or planting non-native or invasive trees, shrubs, or ground layer vegetation that effectively replaces any woodland layer. For avoidance of doubt, the removal of any canopy, subcanopy, or shrub layer of protected woodland may also constitute the removal of regulated trees. For purposes of this definition, neither (a) the planting of flowers and engaging in gardening activities in the protected woodlands that do not harm the survival and regeneration of protected woodlands, nor (b) the detachment or elimination of invasive or noxious trees, shrubs or ground layer vegetation, such as those identified in the ecological cost share programs, shall be deemed to be removal. In construing the preceding sentence, activities that harm the regeneration of the protected woodlands are those that cumulatively cancel the natural processes through which the native woodlands would regenerate if the activities in question were to cease.

**TREE EMERGENCY:** The existence of any tree within the village that has become an immediate danger or hazard to persons or property as a result of any tornado, windstorm, flood, freeze, natural disaster or other occurrence.

**TREE MITIGATION FEE:** The fee to be paid by an owner for the removal of

desirable protected trees or highly desirable protected trees, to the extent the provisions of this chapter require the payment of such fee, in the amount set forth in the village fee schedule.

**TREE REMOVAL PERMIT APPLICATION:** The application (including fee, if any) required for issuance of a tree removal permit pursuant to this chapter.

**TREE REMOVAL PERMIT:** The written permit issued by the village to authorize the removal of regulated tree(s) pursuant to the provisions of this chapter.

**VILLAGE ECOLOGIST:** The employee or consultant of the village who is a trained restoration ecologist and is designated to act as village ecologist.

**VILLAGE FEE SCHEDULE:** The fee schedule adopted pursuant to Section 1-11-5 of this code.

**VILLAGE FORESTER:** The employee or consultant of the village who is a trained forester/arborist and is designated to act as village forester.

**WOODLAND DELINEATION PARCEL MAP:** As defined in Section 9-6-2-G.

**WOODLAND DELINEATION SURVEY:** As defined in Section 9-6-9.

**WOODLAND REMOVAL PERMIT APPLICATION:** The application (including fee, if any) required for issuance of a woodland removal permit pursuant to this chapter.

**WOODLAND REMOVAL PERMIT:** The written permit issued by the village to authorize the removal of protected woodland pursuant to the provisions of this chapter.

**9-6-6: TREE REMOVAL PERMIT REQUIRED:**

- A. Except for tree emergencies, it shall be unlawful for any owner without a tree removal permit from the village to damage or remove any regulated tree. Any owner is responsible for the damage or removal of the regulated tree on such owner's property when the damage or removal was performed or caused by another person acting with the permission of such owner.
- B. Any owner who damages or removes one or more regulated trees without a tree removal permit shall be required to apply retroactively for a tree removal permit. If more than 20% of the critical root zone of any regulated tree will be damaged or removed as result of proposed construction on an owner's property, then notwithstanding the intent of the owner to preserve such regulated tree, the loss of such regulated tree shall be assumed and

an application for tree removal permit required in such instance.

- C. An owner applying for a permit to remove protected woodland under this chapter shall apply for a tree removal permit with respect to any regulated trees to be removed from the protected woodland.
- D. If an owner seeks a tree removal permit, the application for such tree removal permit shall contain:
  - 1. Name and address of the owner;
  - 2. Commonly known address of the owner's property where the removal shall occur;
  - 3. Name and address of the contractor or other person who is proposed as having responsibility for tree removal;
  - 4. A hand drawn map indicating the location of each tree proposed for removal;
  - 5. A general description of all trees to be removed, including tree number, species, size (DBH), condition, and reason for removal;
  - 6. When a site development permit is required, a site development plan sheet entitled "Woodland/Tree Protection & Landscaping Plan" containing all or a portion of such details as may be specified or required for such plans for reviewing such permit under the Riverwoods Development Ordinance;
  - 7. When a site development permit is required, a tree survey of all regulated trees (except buckthorn and honeysuckle) 1.5" to 6" DBH (and multi-stem variations) extending a minimum of 20 feet beyond the construction limits and all 6" DBH and greater regulated trees extending a minimum of 40 feet beyond the construction limits and overlaid directly upon the woodland/tree protection and landscaping plans contained in the site development plan, showing the tag number, species, size (DBH), condition and percent of critical root zone permanently impacted of all regulated trees. The survey shall distinguish among trees to be preserved, root pruned, transplanted, or removed. The owner may exclude areas of the site or trees under 6" DBH from the tree survey, if the village ecologist determines that the proposed construction or other activity will not impact those areas; and
  - 8. Such other data and information as the village shall deem necessary to allow full and fair consideration of the tree removal

permit application.

- E. Upon receipt of a tree removal permit application, the village ecologist shall inspect the owner's property and contiguous and adjoining lots in order to evaluate the application, including finding whether any of the trees requested for removal are located in a protected woodland area. Subject to compliance with applicable provisions of this code, upon recommendation of the village ecologist, the village will issue a tree removal permit, without charging a tree mitigation fee, if, based on the site inspection, one or more of the following permit conditions is satisfied:
1. The tree is not a desirable protected tree or highly desirable protected tree;
  2. The tree is a desirable protected tree or highly desirable protected tree that is proposed to be removed or relocated within two (2) years after first being planted;
  3. The tree to be removed is located within the footprint of a new principal building to be located on an undeveloped lot that has never been improved with a single-family dwelling;
  4. The tree must be removed because it is dead, dying or diseased;
  5. The tree is weakened by disease, age, fire, storm or other natural causes such that it is likely to die or become diseased;
  6. The tree constitutes a hazard to pedestrian or vehicular traffic; or
  7. The tree constitutes a tree emergency.
- F. An owner or agent acting pursuant to a tree removal permit shall remove the trees identified in such permit in accordance with the terms and conditions set forth in the tree removal permit. Tree removal permits will be issued initially for a period of ninety (90) days and may be extended by the village ecologist for good cause shown.

**9-6-7: TREE EMERGENCIES:**

- A. If a tree emergency shall occur, such that there arises a risk of imminent danger or hazard to persons or property from any tree which ought to be cut or removed immediately or with as little delay as possible (i.e., trees which threaten to fall or have fallen on houses or power lines or block safe passage of streets or have become uprooted or unstable as a result of severe weather, floods or high winds), then it shall be lawful for the owner to remove such tree, to the extent necessary to avoid immediate danger or

hazard, without a tree removal permit; provided that within five (5) business days after taking any such action, the owner shall complete relevant portions of the tree removal permit application describing the tree emergency and the actions taken. In order to expedite the removal of a tree causing a tree emergency, the owner may also take photos of the tree(s) in question and send to the village ecologist/forester who can then respond immediately to approve the tree(s) removal.

- B. If the village ecologist, upon the review of the tree removal permit application, concurs that the owner's actions were warranted, no further action under these regulations shall be necessary, but if the village ecologist determines that no genuine tree emergency existed to justify the removal of the regulated tree(s), then such actions by the owner shall be deemed a violation of these regulations.

**9-6-8: ELECTIVE OR UNPERMITTED TREE REMOVAL:**

- A. The village policy is to discourage the removal of native trees for frivolous reasons. A tree removal permit will be issued for removal of a native tree when made necessary by construction, additions or property improvements or repairs within the building envelope allowed on the parcel in question. In such instances, the owner may obtain a tree removal permit for the removal of the native tree concurrently with the approval of the building permit upon paying the applicable building permit fees, tree removal permit and mitigation fees.
- B. In instances when the native tree sought to be removed is located within any required yard on the owner's parcel, the owner shall have a burden of establishing that no reasonable methods of accomplishing the construction or repairs are available that could avoid the removal of the native tree in the required yards. The removal of native trees in any required yard shall be limited to the minimum amount necessary for the proposed construction.
- C. Except when the village waives the payment of the tree mitigation fee, as described in Section 9-6-12 below, tree mitigation fees are payable for the removal of native trees pursuant to a tree removal permit. The payment of tree mitigation fees for any elective removal shall be as set forth in the village fee schedule. The fees shall be at a rate assessed on each one inch (1") in trunk diameter of removed native trees (measured by DBH) and may vary according to the species of the removed tree(s), if so provided in the village fee schedule. If there are protected woodlands on the parcel in question that would benefit from implementation of an ecological mitigation plan, then the village may waive or reduce the payment of the tree mitigation fee, as described in Section 9-6-12 below.

- D. An owner who damages or removes one or more regulated trees without a tree removal permit is required to apply retroactively for a tree removal permit and shall be subject to the penalty provisions of this chapter. In addition, the owner shall pay the tree mitigation fees indicated in the village fee schedule for any trees removed that were native trees. If the identity of trees removed as native trees cannot be determined, due to the actions of the owner, then the village shall treat such occurrence as an aggravating circumstance when imposing the penalty amount.

**9-6-9: ADOPTION OF WOODLAND DELINEATION PARCEL MAPS:**

- A. Except as provided in this Section 9-6-9, the woodland delineation parcel map for each parcel in the village is hereby adopted and accepted as a rebuttably true and correct delineation of protected woodland for the parcel to which it applies, to the extent and within the area documented on the woodland delineation parcel map for such parcel.
- B. Any owner, including any applicant for a site development permit, may elect to provide an on-ground survey, prepared by an experienced ecological consultant selected by the applicant, to delineate the native woodlands on such owner's property (a "woodland delineation survey"). For the purposes of this chapter, any woodland delineation survey shall satisfy the following criteria or will be rejected as inapplicable to the regulations of this chapter:
  - 1. Native woodlands shall be delineated on a scaled plan showing the boundaries all native woodlands on the parcel in question, according to the definition of native woodlands in this chapter. Without limiting the foregoing, the area of native woodlands so delineated will exclude grass lawns, impervious surfaces, or other manmade surfaces such as a horse corral.
  - 2. Woodland delineation flags shall be placed along the edge of the native woodlands and be placed as close together as necessary to define the native woodlands, but no farther apart than fifty feet (50').
- C. The edge of native woodlands that is delineated on the parcel shall be reviewed by the village ecologist, who shall either reject or approve the proposed delineation or approve the delineation with modifications. If the woodland delineation survey is being prepared in conjunction with an application for a site development permit, the delineation of the native woodlands shall be shown on the site plan. No site development permit shall be issued to any person under title 8 of this code if the proposed development would result in a violation of section 9-6-10 of this chapter.
- D. An owner may apply for a map amendment to the amount of protected

woodland shown by a woodland delineation parcel map on such owner's parcel by submitting a woodland delineation survey to the village, together with such other photographic or documentary information as the owner deemed relevant, as part of a formal request for map amendment. If a preponderance of evidence submitted indicates that the woodland delineation parcel map for the lot in question overstates the extent of native woodlands on the parcel in question as of April 8, 2017, then the village shall revise the woodland delineation parcel map to correct for the overstatement.

- E. Notwithstanding the area documented on the woodland delineation parcel maps, if an owner or such owner's predecessor(s) shall have participated in an ecological cost share program and enlarged the native woodlands on such owner's parcel after April 8, 2017, the areas of native woodlands enlarged through the ecological cost share programs, although not shown on the woodland parcel map for the parcel, will nevertheless be documented as protected woodland and a notation by the village ecologist will be placed on the woodland delineation parcel map to indicate the adjusted boundary of the protected woodland, which shall thereafter be the protected woodland for such parcel for purposes of applying the limitations in section 9-6-10 of this chapter. By means of a woodland delineation survey, any owner may document any additions to the native woodlands located on such owner's lot by means of a woodland delineation survey submitted to and approved by the village, and a notation by the village ecologist will be placed on the woodland delineation parcel map to indicate the adjusted boundary of the protected woodland on such owner's parcel, which shall thereafter be the protected woodland for such parcel for purposes of applying the limitations in section 9-6-10 of this chapter.
- F. The village clerk is directed to retain an official copy of the woodland delineation parcel map for each parcel in the village with all notations thereon.

**9-6-10: LIMITATIONS ON REMOVAL OF PROTECTED WOODLAND:**

- A. With respect to any parcel in the village, it shall be unlawful for any person to cause or permit any removal of protected woodland on such parcel to such an extent as to result in a net, aggregate loss of more than 20% of the area of such parcel's protected woodland.
- B. When a parcel is subdivided after January 1, 2018, the village ecologist shall issue a woodland delineation parcel map for each resulting lot (based on the woodland delineation parcel map for the original parcel) and shall notate on the maps the extent of removal of protected woodland on

each parcel that occurred before the subdivision.

1. The area of protected woodland allowed to be removed from the subdivided parcels, in the aggregate, shall be the same area as could have been removed immediately before the subdivision occurred (the "woodland removal allowance"). The subdivision plat shall contain a restriction allocating the woodland removal allowance among the parcels. This plat restriction shall take precedence over the 20% restriction set forth in section 9-6-10-A.
  2. It shall be unlawful for any person to cause or permit any removal of protected woodland on any subdivided parcel in violation of the applicable plat restriction.
- C. Notwithstanding any provision to the contrary in this chapter, for a parcel that has never been improved with a residence (including a parcel that results from a subdivision), no tree mitigation fee shall apply to the removal of native trees located within the area of any protected woodland that is removed in accordance with the provisions of this chapter.
- D. An owner shall be allowed to apply for a variation under chapter 11 of title 9 of this code to remove up to five percent (5%) of protected woodland above the amount of protected woodland that could otherwise be removed on such owner's parcel under this chapter, because of special or peculiar characteristics of the owner's parcel that make compliance with this chapter difficult or impossible. The woodland removal restrictions applicable to any parcel shall not be varied more than once.

**9-6-11: WOODLAND REMOVAL PERMIT REQUIRED:**

- A. No person shall cause or permit any removal of protected woodland on any parcel in the village, unless the the person has obtained a woodland removal permit from the village. The purpose of this provision is to ensure that the removal does not violate the allowable reduction in protected woodland on such owner's land. Removal of protected woodland harms the survival and regeneration of native woodland in the cleared area and may result in a violation of this chapter. Any owner who damages or removes any protected woodland on such owner's land without a woodland removal permit or in violation of a woodland removal permit shall be responsible for the damage or removal of such protected woodland, notwithstanding that the damage or removal was performed or caused by another person acting under the authority of such owner. Any owner who performs or allows protected woodland removal to occur on such owner's parcel without a woodland removal permit shall be required

to apply retroactively for a woodland removal permit and shall be subject to the penalty provisions of this chapter. A contractor performing work on an owner's parcel is considered to be working under the direction and supervision of the owner, and the owner is responsible for the actions of the contractor that constitute violations of this chapter.

- B. If an owner seeks a woodland removal permit, the application for such woodland removal permit shall contain:
1. Name and address of the owner;
  2. Commonly known address of the owner's property where the removal shall occur;
  3. A written statement indicating the reason for the removal;
  4. A description indicated on the woodland delineation map for such owner's parcel of all specific areas of protected woodland to be removed;
  5. A dimensioned drawing containing all or a portion of such details as may be specified or required for such plans under section 8-5-3 of this code, if requested by the village ecologist to allow full and fair consideration of the woodland removal permit application;
  6. When a site development permit is required, a site development plan sheet entitled "Woodland/Tree Protection & Landscaping Plan" containing all or a portion of such details as may be specified or required for such plans for reviewing such permit under the Riverwoods Development Ordinance; and
  7. Whenever protected woodland has been removed since April 8, 2017, a current woodland delineation survey may be required, if deemed necessary by the village for measuring the amount of remaining protected woodland with sufficient accuracy.
- C. Upon receipt of the owner's application, the village ecologist shall visit and inspect the owner's property and visually inspect contiguous and adjoining lots in order to evaluate the application. Subject to compliance with other applicable provisions of this code, the village ecologist shall approve the application and issue a woodland removal permit if, based on a site inspection, the removal of such protected woodland will not reduce protected woodland below the allowable amount under Section 9-6-10. If the removal of protected woodland is in accord with this chapter, no charge shall be assessed to the owner for the woodland removal permit (although a charge may apply for a concurrent tree removal permit if

native trees are being removed).

**9-6-12: ECOLOGICAL MITIGATION PLAN:**

- A. An owner who receives a court order (or decision of an administration hearing officer) to cure a violation of this chapter stemming from the unlawful removal of native trees and/or protected woodlands shall enter into an ecological mitigation plan with the village in addition to paying any fine set forth in the order or decision.
- B. An owner charged with the unlawful removal of native trees and/or protected woodlands may request to cure such violation by voluntarily settling the violation with the village and entering into an ecological mitigation plan with the village, provided the owner shall pay a minimum fine of \$100, as a condition of entering into the ecological mitigation plan.
- C. An owner desiring to perform the lawful removal of native trees on the owner's parcel may apply for a waiver of all or a portion of the applicable tree mitigation fee by voluntarily agreeing to implement an ecological mitigation plan recommended by the village ecologist, pursuant to which the owner undertakes beneficial ecological restoration of protected woodlands on such owner's parcel. Such ecological mitigation plans will be approved only in those cases where tree mitigation fees would otherwise exceed \$5,000 and the degree to which the owner undertakes beneficial ecological restoration of protected woodlands and completes such restoration activities would merit such consideration.
- D. An ecological mitigation plan, together with such application form as may be prescribed by the village, may be prepared by owner's ecological consultant or collaboratively with the village ecologist and submitted to the village for review and approval. The ecological mitigation plan must be prepared in accordance with the specifications developed by the village ecologist for implementation of the ecological cost share programs (but without the cost share). Each ecological mitigation plan shall specify the locations of proposed restoration options, including but not necessarily limited to, native tree and shrub planting, canopy and subcanopy tree thinning, native seeding, invasive shrub removal, garlic mustard removal, and/or prescribed burning. In reviewing and approving each ecological mitigation plan, the village ecologist will recommend the forms of ecological mitigation that are most feasible and beneficial to the native woodland on the owner's parcel. Upon request of the owner and approval by the village president, the village ecologist may prepare the ecological mitigation plan for use by the owner, at the owner's expense.
- E. Each ecological mitigation plan shall establish timelines. For ecological

mitigation of removed native trees, the timeline shall be six (6) months after the date of approval of the ecological mitigation plan. An extension of time may be granted by the village ecologist upon request, provided, however that no such extension shall exceed twelve (12) months from the original date of issuance of the permit. A timeline for ecological mitigation of native woodlands shall be as set forth in the approved ecological mitigation plan, but it is not uncommon for such plans to require commitments of three (3) or more years of management/stewardship before measurable restoration performance of woodlands can be confirmed. Each ecological mitigation plan, as a condition of approval, shall be performed by a trained ecological restoration contractor, certified for such work by the village under the ecological cost share programs.

- F. In each ecological mitigation plan, the owner shall agree to reimburse the village for its reasonable fees and expenses, including consultants' and attorneys' fee to the extent permitted by law, in preparing, negotiating, inspecting and enforcing the ecological mitigation plan, and shall agree that the village will be entitled to record a lien against such owner's parcel for recovery of any such unpaid fees and expenses. The fees for the services of the village ecologist and other consultants will be charged to the owner at rates as set forth in the village fee schedule.

**9-6-13: APPEALS:** An owner may appeal in writing to the village board of any decision made by the village ecologist/forester under the provisions of this chapter within thirty (30) days of such decision being rendered. No such appeal shall stay any court proceedings, including any administrative adjudication, in furtherance of the decision appealed from and all duties imposed thereby. The board of trustees shall select a reasonable time and place for a public hearing on the appeal, shall give due notice thereof to the parties having a known interest therein and shall render a written decision without unreasonable delay. Upon the concurring vote of a majority of its members then holding office, the board of trustees may reverse or affirm, in whole or in part, or may modify, the decision from which the appeal was taken, and to that end the board shall have all the powers of the village officials or agents charged with making the decision appealed from.

**9-6-14: PENALTY:**

- A. Whoever violates any of the provisions of this chapter shall be punished by a fine of up to \$1,000 for each such violation.
- B. in case of unlawful removal of regulated trees without a tree removal permit or in violation of the terms of such permit, a separate and distinct violation shall be deemed to have occurred for each regulated tree unlawfully removed in violation of this chapter, and a separate and distinct violation shall be deemed to have occurred for each day that such violations exist.

- C. in case of unlawful removal of protected woodland without a woodland removal permit or in violation of the terms of such permit, a separate and distinct violation shall be deemed to have occurred for each day that such protected woodland is unlawfully removed and/or not restored in violation of this chapter, and a separate and distinct violation shall be deemed to have occurred for each day that such violations exist.
  
- D. In addition to any fine permitted or required to be imposed hereunder, the village may seek injunctive relief to prevent an actual or threatened violation of this chapter, and may also seek mandatory injunctive relief to require the owner of the lot in question to bring such lot into compliance with this chapter by preparing and implementing an ecological mitigation plan, the corporate authorities finding that the village and the health, safety and welfare of its residents will be irreparably harmed by the failure to observe the regulations in this chapter, and that the imposition of a fine alone is an inadequate remedy for such violations. The village may prosecute violations of this chapter filing a case directly in the appropriate court or by referring the offense to the administrative adjudication system for hearing and resolution in accordance with this code.

**9-6-15: CONFLICT WITH OTHER ZONING PROVISIONS:** Where a conflict results between the regulations of this chapter and the provisions of the zoning districts in which any lot is located, the regulations of this chapter shall control.

\* \* \*

**SECTION THREE:** Ordinance Nos. 06-3-7, 04-9-9 and 12-1-1 are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are hereby repealed. Chapter 5 of Title 5 of the Riverwoods Village Code shall be replaced with "Reserved" and all provisions removed therefrom.

**SECTION FOUR:** All references in this code to the Riverwoods Woodland Protection Ordinance, or Riverwoods Woodland Preservation Ordinance, or Riverwoods Tree Preservation Ordinance shall be changed to refer to the Riverwoods Tree and Woodland Protection Ordinance

**SECTION FIVE:** Every section and provision of this Ordinance shall be separable, and the invalidity of any portion of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**SECTION SIX:** This Ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

**AYES:** Chamberlain, Ford, Goldstein, Haber, Hollander, Jamerson (6)

**NAYS:** None (0)

**PASSED & APPROVED** this 6<sup>th</sup> day of March 2018.

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Village President

Attest:

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Village Clerk