



LAKE COUNTY FOREST PRESERVES
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Preservation, Restoration, Education and Recreation

DATE: December 2, 2019

MEMO TO: John Wasik, Chair
Planning Committee

Agenda Item# 9.6

FROM: Randall L. Seebach
Director of Planning and Land Preservation

RECOMMENDATION: Recommend approval of a revised Ordinance Regarding Licenses and Easements.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: There is no financial impact at this time.

BACKGROUND: The District's License and Easement Ordinance was initially approved by the Board of Commissioners in May 1987, and amended in August 1991, August 1999, March 2005, June 2014 and July 2015. Based on their experience working with the ordinance for several years, staff recommends that the Board adopt a revised ordinance in the form attached. The ordinance revisions include (i) identifying additional, but already existing, review processes for State protected lands (such as dedicated nature preserves) to make those processes more clear and transparent to applicants, (ii) changing references from "Daily License" and "Short-Term License" to "Daily Permits" and "Short-Term Permits" respectively in order to align more accurately with state document retention policy, and (iii) adding authority to issue short-term (not more than 180 days) permits to certain private parties for uses that are reasonably related to forest preserve purposes (e.g., environmental testing), and (iv) includes revisions which are necessary to reflect departmental and Committee restructuring which took place in January 2017.

REVIEW BY OTHERS: Executive Director, Chief Operations Officer, Director of Finance, Corporate Counsel.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR DECEMBER MEETING
DECEMBER 10, 2019**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **PLANNING COMMITTEE** presents herewith a "An Ordinance Regarding Licenses and Easements" and requests its approval.

PLANNING COMMITTEE:

Date: 12-2-2019 Roll Call Vote: Ayes: ___ Nays: ___
 Voice Vote Majority Ayes; Nays: 0

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**AN ORDINANCE REGARDING
LICENSES AND EASEMENTS**

WHEREAS, pursuant to Section 6 of the Downstate Forest Preserve District Act (the "Act"), 70 ILCS 805/6, the Lake County Forest Preserve District (the "District") has the "power to grant licenses, easements and rights-of-way for the construction, operation and maintenance upon, under or across any property of [the] District of facilities for water, sewage, telephone, telegraph, electric, gas or other public service, subject to such terms and conditions as may be determined by [the] District"; and

WHEREAS, pursuant to Section 7b of the Act, 70 ILCS 805/7b, the District's Board of Commissioners may by ordinance issue licenses "for any activity reasonably connected" with the purpose for which the District has been created; and

WHEREAS, pursuant to Section 8 of the Act, 70 ILCS 805/8, the District may enact such rules and regulations for the management and conduct of its operations and business as it deems appropriate; and

WHEREAS, it is reasonable, necessary, and desirable for the District to adopt this ordinance ("Ordinance") to provide the rules, regulations, and conditions applicable to the District's issuance of (i) easements for public services ("Easements") and (ii) licenses (a) for public services (including a daily permit license (a "Daily Permit"), a short-term permit license (a "Short-Term Permit"), and a long-term license (a "Long-Term License")) and (b) for certain private uses of District property for purposes reasonably connected to District purposes (including Daily Permits) (collectively, "Licenses") and to provide for such rules, regulations, and conditions to provide for the protection and preservation of the property, facilities, flora, fauna, and scenic beauties of the District, and for the general safety of the public; and

WHEREAS, on July 15, 2015, the District adopted an Ordinance Regarding Licenses and Easements for Public Services (the "2015 Ordinance") and has, from time to time, adopted other ordinances regarding license and easements for public services; and

WHEREAS, it is in the District's best interest to repeal the 2015 Ordinance and approve this Ordinance, governing the District's issuance of ordinances and licenses for public services and licenses for certain private uses; and

WHEREAS, pursuant to the authorities cited above, the District has the authority and the power to adopt this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as part of this Ordinance by this reference.

Section 2. Applicability of Ordinance. This Ordinance shall apply to all requests from-;

- (i) any person, partnership, corporation, public utility, federal, state, or local government entity, or other entity (an "Applicant") to use District property for public services, including without limitation the installation, operation, maintenance, repair, relocation, replacement, or removal ("Work") of any facilities or structures to be owned or controlled by such Applicant ("Facilities") for water, sanitary sewer, storm sewer, telephone, telecommunications fiber optics, electric, gas or other public service ("Public Services") across, over, under, in, or upon any real property owned by the District. ~~It shall be unlawful for any Applicant to perform any Work on, or relating to any Facilities or~~
- (ii) any Applicant that is not a public utility or a federal, state, or local government entity to use or occupy District property for a use or occupancy that
- (a) is reasonably connected with the purposes for which the District has been created (a "Private Use"),
- (b) except that a Private Use will not include any of the following:
1. a Public Service,
 2. a use or occupancy authorized by a "Permit" (a "Use Ordinance Permit") as defined in the District's "Ordinance Governing the General Use of District Property", approved by the District on April 12, 2011 (the "Use Ordinance"),
 3. the use or occupancy of a District-owned building or structure to the exclusion of other members of the public (a "Building License").

Without limiting any other provision in this Ordinance, but by way of example, (i) Public Service uses will be governed by the provisions of this Ordinance governing Public Services, (ii) the use of District property by a person or private entity that is authorized by a Use Ordinance Permit, such as a picnic and the use of a dog exercise area, will be governed by the Use Ordinance, and (iii) the occupancy of a District-owned building or structure to the exclusion of other members of the public, such as a food and beverage concession or a non-profit corporation focusing on nature education programs, will be reviewed by the District on a case by case basis and, if approved, be approved by the District's Board of Commissioners. It shall be unlawful for any Applicant to perform any Work on, or relating to any Facilities on, or to conduct any Public Service or Private Use on, any District property unless the District has first granted a License or Easement to such Applicant in accordance with this Ordinance.

Section 3. Eligibility, Approval Authority, and Maximum Duration.

Pursuant to this Ordinance, and as provided in Table 1 below, an Authorized Representative identified in a row of column 4 may approve the Type of Permission in column 1 of the same row, if that Type of Permission satisfies the Eligibility Requirements in column 2 of that row. Each Type of Permission in column 1 may have a duration no longer than the corresponding Maximum Duration in column 3.

Table 1:

1. Type of Permission	2. Eligibility Requirements	3. Maximum Duration	4. Authorized Representatives
Daily License <u>Permit</u>	Only for a use <u>Public Service</u> or a <u>Private Use</u> that will have a negligible impact on District property and its use and operations, that requires little or no restoration of District property, and that does not pose a health risk.	Two weeks	President, Executive Director, Chief Operations Officer, Director of Planning and Land Preservation, Director of Operations and Infrastructure, or Director of Natural Resources
Short-Term License <u>Permit</u>	Only for a use <u>Public Service</u> or a <u>Private Use</u> that will have a minor impact on District property and its use and operations, that requires little or no restoration of District property, and that does not pose a significant health hazard.	180 days	President or Executive Director
Long-Term License	Any <u>Public Service</u> use of District property that does not fall within one of the other Types of Permission in column 1.	5 years, although terms may be renewable	Board of Commissioners
Easement	Only for a <u>Public Service</u> use (i) by <u>of</u> an Applicant that is a governmental entity, a public utility, or an <u>another</u> entity that provides Public Services and (ii) pursuant to <u>provided through</u> Facilities with a life expectancy greater than 5 years, if the use <u>Public Service</u> will include Facilities.	Perpetual	Board of Commissioners

Section 4. Initial Request and Full Application for License or Easement.

A. Submission and Review of Initial Request. Each Applicant that desires a License or Easement shall submit a request for the License or Easement in writing to the Executive Director or his or her designee, (the "License and Easement Coordinator"), that includes such information, documents, and specifications as the License and Easement Coordinator reasonably determines is appropriate (the "Initial Request"); "Initial Request"), including any information that may be necessary or desirable to ascertain whether the License or Easement is allowed or appropriate in light of any conservation easement, use restriction, or restriction on title (collectively, "Use Restrictions"). For any particular Initial Request or any particular Application, more than one person may serve as the License and Easement Coordinator. The License and Easement Coordinator will review the Initial Request to determine which, if any, Type of Permission listed in Table 1 it qualifies for. If (i) the License and Easement Coordinator determines that the Initial Request qualifies for a Daily LicensePermit or a Short-Term LicensePermit and (ii) any required consent of the owner of a Use Restriction has first been obtained, then the appropriate Authorized Representative identified in Table 1 may grant or deny the Daily LicensePermit or Short-Term LicensePermit pursuant to an Agreement, as provided in Section 6. If the License and Easement Coordinator determines that the Initial Request qualifies for a Long-Term License or an Easement, he or she shall (i) direct the Applicant to complete a full application for a Long-Term License or Easement, which may include the additional information identified in Section 4.B and the supplemental information identified in Section 4.C (a "Full Application") and (ii) direct the Applicant to submit the Full Application to the District's Planning Committee (the "Committee") for Policy Direction, pursuant to Section 5.

B. Information in Full Application. The License and Easement Coordinator may require the Applicant to include in the Full Application additional information regarding the proposed use, including: (i) plans depicting and describing the Work, Facilities, and Public Services, (ii) a map, plat or aerial photo identifying the location and approximate dimensions of the proposed project area and the District Property within which the Applicant is requesting a Long-Term License or Easement (the "Subject Property"), (iii) the proposed duration of the requested Long-Term License or Easement and the life expectancy of the Facilities, (iv) the proposed methods and schedule for the Work, identifying the best available and appropriate technology for the Work, (v) the public benefit that would be provided by the Facilities, (vi) any prior or existing permission granted by the District or any other entity to the Applicant or its predecessors to use the Subject Property, and (vii) the required Application Fee provided for under this Ordinance.

C. Supplemental Full Application Information. Prior to giving, or at the time of giving, Policy Direction (as provided in Section 5), the License and Easement Coordinator or the Committee may require that the Full Application be supplemented with a "Botanic Survey" (as defined in Section 4.C.1) a "Wetland Report" (as defined in Section 4.C.2), a "Drain Tile Survey" (as defined in Section 4.C.3), and an analysis completed by Applicant describing (i) whether there are alternative locations for the proposed Easement or Long-Term License, other than the Subject Property and (ii) in general, the relative benefits and burdens, to the Applicant and the public, of using the Subject Property and other alternative locations (an "Alternative Analysis Report").

1. Botanic Survey.

a. General Requirements. To determine the appropriate Tree Compensation Fees when required, the Applicant may be required to submit as part of a Full Application or as part of an Application for Short-Term LicensePermit, a botanic survey (the "Botanic Survey") identifying all trees, shrubs, plants, and ecological conditions within an area that includes the Subject Property and an

additional 20-foot perimeter around the Subject Property (the "Botanic Survey Area"). The Botanic Survey shall be completed by an experienced botanist and/or arborist who is familiar with the means and methods of conducting a botanical survey as identified below. The information generated from the Botanic Survey shall be presented in a report format describing all direct and indirect impacts to trees, shrubs, and plants within the Botanic Survey Area and at a minimum include a floristic quality assessment conducted in accordance with the Floristic Quality Assessment methodology contained in Plants of the Chicago Region (1994, 4th Edition, The Morton Arboretum, Lisle, Illinois). The floristic quality assessment shall be conducted during the growing season between May 1 and October 1. The information required in Sections 4.C.1.b.-d. below shall be included within the "Construction Plans" (as defined herein). Before initiating the Botanic Survey, the Applicant shall meet with the Executive Director or his or her designee to (i) notify him or her of the person or entity proposed by the Applicant to perform the Botanic Survey; and (ii) discuss the conduct and scope of the Botanic Survey.

b. Trees. For each tree in the Botanic Survey Area, (i) the Botanic Survey shall identify (a) the location of any woody species measuring 3 inches at dbh; (b) the species of the tree; and (c) the standard dbh of the tree; and (ii) the Applicant shall mark the tree with a numbered tree tag.

c. Shrubs. For each shrub measuring more than 3 feet in height in the Botanic Survey Area, (i) the Botanic Survey shall identify (a) the location of the shrub; (b) the species of the shrub; and (c) the height of the shrub; and (ii) the Applicant shall mark the shrub with a numbered tag. Species which are low quality (as defined in the Rules) can be documented by estimating groups or numbers of individual shrubs in a colony.

d. Plants. An inventory of all plants within the Botanic Survey Area shall be conducted. The inventory list shall be entered into the Floristic Quality Assessment Program (Masters and Wilhelm) so that the Floristic Quality Index (FQI) and Mean Coefficient of Conservatism (C value) can be calculated.

2. Wetland Report. If requested by the District, as part of a Full Application, the Applicant shall include a Wetland Delineation and Wetland Determination Report (i) delineating all wetlands that are (a) on the Subject Property, (b) within 100 feet of the Subject Property, or (c) hydrologically connected to the wetlands on the Subject Property; (ii) identifying the boundaries, extent, function and quality of all such wetlands; and (iii) describing the impact, if any, of the Work, Facilities, and Public Services on the wetlands on the Subject Property and any other District property (the "Wetland Report"). The Wetland Report shall be prepared in accordance with the Lake County Watershed Development Ordinance ("WDO"), as amended from time to time, including Article IV, Section E(2) thereof. If wetlands on the Subject Property or other District property are impacted by the Work, Facilities, or Public Services, the Applicant shall provide mitigation for such impacts by creating or enhancing wetlands on (i) the Subject Property, (ii) the District property upon which the impacted wetlands are located, if different than the Subject Property, or (iii) other property owned by the District and approved by the District for such mitigation. The Applicant shall not provide mitigation on any other property or in any other manner, notwithstanding the fact that Requirements of Law might otherwise allow it.

3. Drainage Survey and Drainage Restoration Plan. If requested by the District, as part of a Full Application, the Applicant shall submit to the District a drainage survey that (i) identifies the specific locations, sizes, depths, conditions, and types of drainages, (ii) describes the amount of siltation within the drainages, (iii) describes any impact that the Applicant's project will have on the drainages, and (iv) otherwise conforms to the Lake County WDO, including Article IV, Section B(2)(b)(17) (the "Drainage Survey"). If the District determines that Applicant's project will have a negative impact on any such drainages, the District can require the Applicant to prepare a plan to restore any damage caused by, or to otherwise address, such impacts (a "Drainage Restoration Plan").

Section 5. Policy Direction. Upon receipt of a Full Application for a Long-Term License or Easement, the License and Easement Coordinator shall present the Full Application to the ~~District's Planning Committee (the "Committee")~~ and seek direction from the Committee as to whether the District should enter into negotiations with the Applicant for an Agreement (as defined in Section 6) that would grant to the Applicant a Long-Term License or an Easement ("Policy Direction"); however, if the Subject Property is subject to a Use Restriction, the License and Easement Coordinator may elect to present the Full Application to the Committee for Policy Direction only after the owner of the Use Restriction has approved the Long-Term License or Easement. If the Committee gives Policy Direction to negotiate an Agreement with the Applicant, then the License and Easement Coordinator shall further process the Full Application in accordance with this Ordinance and negotiate an Agreement. Rules and procedures for the processing of Applications and for certain fees and costs (the "Rules") are attached to this Ordinance. The ~~Planning~~ Committee may amend the Rules from time to time, if such amendments do not conflict with this Ordinance. Policy Direction to negotiate is subject to any Botanic Survey, Wetland Report, Drain Tile Survey, "Drain Tile Restoration Plan" (as defined in Section 4.C), and Alternative Analysis Report required by the District. Policy Direction by the Committee is not sufficient to grant any Easement or Long-Term License rights. Rather, an Easement or Long-Term License will be deemed approved by the District, only if it is approved by a resolution, ordinance or motion of the Board of Commissioners. If, within one (1) year after the Committee gives Policy Direction (or such longer period that is approved by the Committee), the District and the Applicant have not approved and executed an Agreement, the Policy Direction for that potential Agreement will expire, and the Applicant, if it still desires the Long-Term License or Easement, must obtain new Policy Direction.

Section 6. Approval, Denials, and Waivers. If an Authorized Representative approves a Daily ~~LicensePermit~~, Short-Term ~~LicensePermit~~, Long-Term License or an Easement, he, she, or it may do so only pursuant to an agreement in a form approved by the District's Corporate Counsel (an "Agreement"). In its approval of such an Agreement, or in the Agreement itself, the Authorized Representative may waive specific provisions of this Ordinance if the Authorized Representative determines it is in the best interests of the District to do so. Notwithstanding any other provision of this Ordinance, an Authorized Representative may determine not to approve a Daily ~~LicensePermit~~, Short-Term ~~LicensePermit~~, Long-Term License, or Easement for any reason, including without limitation, if the Authorized Representative determines, in his, her, or their sole and absolute discretion, that the Work, Facilities, or Public Services (i) may destroy or limit the present or future function, purpose, or utility of District property; (ii) may impede the present or future operation of any District property or programs; (iii) may destroy, threaten, or disturb unique or high quality natural, cultural, and historic areas as identified by the District or any other governmental agency; (iv) may interfere with the scenic beauties of the District property; (v) would occur on District property encumbered by ~~conservation easements or other use restrictions~~ Use Restrictions; or (vi) are not in the best interest of the District.

Section 7. Fees and Reimbursements for Easements and Licenses.

A. Application Fee. An application fee for a Full Application, in the amount set forth in the Rules, shall be paid to the District upon submission of the Full Application.

B. Monetary Fee.

1. Fair Market Value. For each Short-Term ~~LicensePermit~~, Easement, and Long-Term License, the Applicant shall pay to the District a fee (a "Monetary Fee"). The Monetary Fee for a Short-Term ~~LicensePermit~~ shall be \$500. The Monetary Fee for an Easement or Long-Term License shall not be less than the fair market value of the Subject Property as determined by (i) an appraisal of the

Subject Property; (ii) a current or recent purchase price of the Subject Property; (iii) sales of comparable properties; or (iv) such other information as will provide the best indication of the current fair market value (the "Fair Market Value"). The Fair Market Value shall be determined for the Subject Property, based on the conditions that the Subject Property is unencumbered and that the Subject Property is a part of a larger land holding, but not necessarily the entire forest preserve of which it is a part. Additionally, the Fair Market Value of the larger land holding will be based on its economic highest and best use and not on a highest and best use relating to forest preserve usage. The Fair Market Value shall not take into consideration the fact that the District may have granted another Easement or License within the Subject Property. The Monetary Fee shall also include compensation to the District for any damages (severance or otherwise) that the Easement or Long-Term License would cause to the Subject Property in which the Easement or Long-Term License is located.

2. Area of Subject Property. For purposes of determining the Fair Market Value, the Applicant shall provide a plat or legal description of the Subject Property identifying the total square footage of the Subject Property. However, regardless of the actual square footage of the Subject Property, neither the length nor the width of the Subject Property will be deemed to be less than 25 feet for purposes of determining the Fair Market Value.

3. Additional Consideration. The District reserves the right to require, as part of the Monetary Fee, and in addition to or in lieu of the Fair Market Value, or any portion thereof, any tangible or intangible compensation, item of value, or other consideration in an amount and form determined by the District ("Additional Consideration"). Without limiting the previous provisions of this Section, the District may require Additional Consideration (i) for an above ground Facility that will significantly alter the scenic beauty of District property, as determined solely by the District; (ii) in the form of a waiver of any tap-on, connection, recapture, or similar fee otherwise applicable to a sanitary sewer, storm sewer, potable water, or other Facility providing Public Service; or (iii) as a fee in lieu of Applicant's wetland mitigation obligations pursuant to Section 4.C.2.

C. Tree Compensation Fees. For each Easement, Long-Term License, and Short-Term ~~License~~Permit, the Applicant shall pay fees for trees, shrubs, and plants within the "Botanic Survey Area" (as defined in Section 4.C.1) that are or will be removed, damaged, or otherwise impacted by any Work or Facilities (the "Tree Compensation Fees"). The amount of Tree Compensation Fees will be established as set forth in the Rules and are generally based upon the costs of replacing trees, shrubs, and plants and restoring areas in which trees, shrubs, and plants are removed, damaged, or impacted, including without limitation the cost of purchasing, installing, watering, providing deer protection for, and a one-year guarantee for new trees, shrubs, or plants. If a tree that is removed or damaged exceeds a diameter of eighteen (18") inches measured at standard diameter at breast height ("dbh"), the District reserves the right to require the Applicant to pay an increased Tree Compensation Fee for that tree equal to the value of the tree as determined by an appraisal performed by a qualified tree appraiser, which appraisal shall be prepared at Applicant's cost. The District may expend Tree Compensation Fees to restore trees, plants, or shrubs on the Subject Property or any other District property. The Applicant shall pay the Tree Compensation Fee in addition to, and such payment will not diminish, its obligation to restore pursuant to Section 8.B.2.

D. Reimbursement to District. The Applicant shall reimburse the District for all costs incurred by the District related to the Initial Request and any Full Application, including, without limitation, legal, survey, appraisal, testing services and environmental costs ("Out-of-Pocket Costs"). The Applicant shall also reimburse the District for the internal cost of all time spent by the District's staff related to the Application ("Staff Costs") at the hourly rate set forth in the Rules.

E. Timing of Fees and Reimbursements. The Applicant shall submit the Monetary Fee, Tree Compensation Fees, Bond, and certificate of insurance required by an Agreement to the District immediately after the District's Authorized Representative approves the Agreement. The District will bill Out-of-Pocket Costs and Staff Costs to the Applicant after they have been tabulated by the District.

Section 8. General Provisions.

A. Compliance with Laws; Permits and Approvals. In performing the Work, installing the Facilities, and providing the Public Services, the Applicant shall comply with all applicable laws, statutes, regulations, rules, and requirements of federal, state, and local governments, agencies, and authorities ("Requirements of Law"). In addition, no License or Easement shall be effective until the Applicant has obtained all required permits and approvals for the Work, Facilities, and Public Services that are required by Requirements of Law, including without limitation Requirements of Law enforced by or within the jurisdiction of the U.S. Army Corps of Engineers, the Illinois Department of Transportation, the Illinois Environmental Protection Agency, and the Lake County Storm Water Management Commission. The Applicant shall provide copies of all such permits and approvals to the District.

B. Conduct of Work.

1. Construction. All Work by the Applicant and each contractor, subcontractor, or third party working on its behalf (a "Contractor"), shall be conducted in a good and workmanlike manner, without cost or expense to the District, and in compliance with the Agreement and Requirements of Law. Prior to commencing any Work, the Grantee shall first obtain the Executive Director's approval of engineering, construction and building plans for the Work and Facilities ("Construction Plans").

2. Restoration. If the Work, Facilities, or Public Services damage, destroy, or cause any adverse impact to Subject Property or any other District property, Applicant shall restore the Subject Property at no cost or expense to the District to a condition as good as or better than the condition of the Subject Property prior to such damage, destruction, or impact and in accordance with Section 8.B.2(a) or 8.B.2(b), as applicable.

a. Daily or Short-Term License Permit. For a Daily or Short-Term License Permit (as defined in Section 3), Applicant must restore the Subject Property in accordance with the Agreement and any additional restoration specifications provided by the District.

b. Long-Term License or Easement. For a Long-Term License or Easement (as defined in Section 3), Applicant must restore the Subject Property in accordance with a restoration plan developed by the Applicant and approved by the District. The restoration plan must include, but is not limited to: species lists, quantities, planting schedules, follow-up maintenance, performance standards and monitoring activities. Satisfactory establishment of all tree, shrub, plant, and seed materials after one growing season and at a minimum twelve (12) months, or as otherwise stated, following initial installation is the responsibility of the Applicant. The Applicant shall supply a management plan for this establishment period documenting maintenance activities that shall be undertaken by the Applicant to ensure that the restoration meets the performance standards within the Agreement that grants the Easement or Long-Term License.

3. Hazardous Materials. The Applicant shall comply with all Requirements of Law that prohibit, restrict, or regulate any hazardous materials.

C. **Easements and Licenses are Non-Exclusive.** Licenses and Easements granted pursuant to this Ordinance shall be non-exclusive and the District may grant multiple Easements and Licenses within the Subject Property or any portion thereof.

D. **No Assessments.** In each Agreement, the Applicant shall agree that (i) it shall not assess or impose against the Subject Property any special assessment, special service area tax, recapture fee, or similar assessment, tax, or fee (an "Assessment"); and (ii) if any Assessment has been imposed, or is imposed in the future, it shall waive such Assessment or indemnify the District from and for such Assessment.

E. **District Held Harmless.** In each Agreement, the Applicant shall agree (i) that the District shall not be liable for any alleged damage or injury to any person, entity, or property as a result of or relating to the Work, the Facilities, the Public Services, or the License or Easement; and (ii) to indemnify and hold harmless the District, its commissioners, officers, agents, and employees from and against any alleged loss, claim, expense, damage, or claim, including litigation costs and attorney fees, related to any such alleged damage or injury.

F. **Insurance for Grantee and Contractors.** In each Agreement, the Applicant shall obtain, or cause each Contractor to obtain, and keep in full force and effect insurance necessary to protect and hold harmless the District, the Work, the Subject Property, and all property located at or near the Subject Property. The required coverage amounts shall be determined by the District and will be updated from time to time. The Applicant shall provide evidence of insurance coverage by providing current certificate(s) of insurance naming District as an additional insured.

G. **Bond.** Prior to performing any Work, the Applicant shall, or shall require its Contractor to, deposit with the Executive Director a certified or cashier's check in an amount determined by the District in the Agreement as a guarantee that the Applicant shall comply with all requirements of the Agreement and this Ordinance including restoration of the Subject Property (the "Bond"). If Applicant fails to comply with any such requirements, the District may take such action as it determines necessary or appropriate to remedy such failure and deduct any cost it incurs in taking such action from the Bond. The District will return the Bond to the Applicant only after the Applicant has completed all of its obligations under this Ordinance and its Agreement, including without limitation (i) payment of all required fees and costs, (ii) if the Applicant has wetland mitigation obligations, completion of maintenance and monitoring obligations associated with such mitigation, and (iii) delivery of As-Built Drawings, as provided in Section 8.L. The Applicant shall notify the District when it has satisfied the requirements identified in the previous sentence and request the release of its bond.

H. **Recording.** All Agreements granting Easements shall be recorded with the Lake County Recorder of Deeds (the "Recorder"), by and at the sole cost of the Applicant.

I. **Revocation.** Each Agreement shall provide that, upon a breach of the Agreement, the Authorized Representative (who or which would be authorized to approve the Agreement) may (i) revoke the License or Easement granted in such Agreement and (ii) if an Easement is revoked, prepare and record with the Recorder a certified copy of a document revoking the Easement.

J. **Reversion of Property.** Each Agreement shall provide that, if the License or Easement ceases to be used for the purpose for which it was granted, then, upon refund to the Applicant of a pro rata share of the Monetary Fee, all Applicant's rights provided for in the Agreement granting the License or Easement shall terminate and the Subject Property shall thereafter be free and clear of such

rights. If an Easement is terminated, the Board of Commissioners may prepare and record with the Recorder a certified copy of a document memorializing such termination.

K. Removal of Facilities Upon Termination. At the time a License or Easement expires by lapse of time, revocation, termination, or any other reason, Applicant shall have removed all Facilities from the Subject Property and restore the Subject Property, in accordance with Section 8.B.2, at Applicant's sole cost and at no cost or expense to the District.

L. As-Built Drawings; Certification. If Applicant desires to construct any portion of the Facilities in a manner that deviates from the Construction Plans, it may do so only if the Executive Director first approves such deviation in writing. After such an approval, the Applicant must prepare an amendment to the Construction Plans, labeled "As-Built Drawings," depicting the as-built condition of that portion of the Facilities for which the deviation was approved. Within thirty days after completion of the installation of the Facilities, the Applicant must prepare and deliver to the District a written statement that the Facilities were constructed in strict conformance with the Construction Plans and, if applicable, the As-Built Drawings.

M. Penalty. Any person or entity that violates the provisions of this Ordinance shall be fined not less than five hundred dollars (\$500.00) or more than one thousand dollars (\$1000.00) for each offense. Each day such violation continues shall constitute a separate offense.

N. Captions. The captions and headings used herein are for the convenience of reference only and do not limit the content of this Ordinance.

O. Repealer. All Requirements of the Law of the District that conflict with this Ordinance are hereby repealed to the extent of such conflict.

P. Effective Date. This Ordinance shall be in full force and effect 10 days after its passage, approval, and publication, in the manner provided by Requirements of Law.

PASSED this _____ day of _____, 2019.

AYES:

NAYS:

APPROVED this _____ day of _____, 2019.

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

RULES AND PROCEDURES FOR PROCESSING APPLICATIONS

I. General Procedures.

1. 4. — The full application, review, and approval process is set forth in the District's "Ordinance Regarding Licenses and Easements" (the "Ordinance"). These Rules and Procedures are subject to the Ordinance. Nothing in these Rules and Procedures limits the discretion of an Authorized Representative to approve, or not approve, a license or easement for any reason.

2. The Applicant should begin by contacting:

Lake County Forest Preserve District
Attn: Rebecca Hegner
1899 West Winchester Road
Libertyville, Illinois -60048
(847) 968-3357

It is strongly recommended that the Applicant set up an initial meeting with the Lake County Forest Preserve District ("District") Department of Planning and Land Preservation; ~~Land Preservation Division~~ to discuss the proposed easement or license prior to incurring expenses related to the proposal. At this initial meeting, District staff will discuss the process, scheduling, fees and any other apparent issues with the proposal.

23. If the Applicant chooses to proceed with the proposal, the Applicant must provide the information required by the ~~District's "Ordinance Regarding Licenses and Easements for Public Services" (the "Ordinance")~~ and any other information as requested by the Department of Planning and Land Preservation and Special Projects.

34. The following table lists the Types of Permission, the estimated minimum time for the District to process each Type of Permission (from the Initial Request through approval by the Authorized Representatives), and the fees applicable to each Type of Permission. However, the estimated minimum time to process does not take into account the time period for an owner of any applicable Use Restriction (as defined in the Ordinance) to review and process the requested Type of Permission; the District has no control over such time period. For example, if the subject property is a dedicated State Nature Preserve, there will be a period of time (outside the District's control) during which the State of Illinois will review the requested Type of Permission.

Type of Permission	Minimum time to process	Fees
Daily License <u>Permit</u>	7 days	Out-of-Pocket Costs and Staff Costs
Short-Term License <u>Permit</u>	14 days	\$500 Monetary Fee, Tree Compensation Fees, Out-of-Pocket Costs, and Staff Costs
Long-Term License	90 days	\$750 Application Fee, Monetary Fee, Tree Compensation Fees, Out-of-Pocket Costs, and Staff Costs
Easement	90 days	\$1000 Application Fee, Monetary Fee, Tree Compensation Fees, Out-of-Pocket Costs, and Staff Costs

45. As provided in the Ordinance, if a daily or short-term ~~license~~ permit is ~~required~~ requested, then the following process applies:

~~a. The license agreement will be negotiated and drafted.~~

a. At such time as he or she deems appropriate, the District's License and Easement Coordinator will negotiate an agreement with the applicant and draft an agreement.

b. The Applicant will be asked to review and execute the final draft of the ~~license~~ agreement.

c. The draft ~~license~~ agreement will be presented to an Authorized Representative of the District (as identified in Section 3 of the Ordinance) for review. If approved by the Authorized Representative, the agreement is then executed. Monetary Fees, Tree Compensation Fees, Bonds, and Certificates of Insurance are due immediately following the Authorized Representative's approval.

56. As provided in the Ordinance, if an easement or long-term license is ~~required~~ requested, then the following process applies:

a. The application will ~~go be presented~~ be presented to the ~~Land Preservation and Acquisition Planning Committee and then to the Finance and Administrative Committee. These committees. The committee~~ will be asked to approve (or not approve) initiation of the negotiation process. This ~~process~~ approval is known as "Policy Direction." Policy Direction merely initiates the formal review process and does not constitute ~~ana formal or final~~ approval or ~~formal~~ recommendation of any ~~kind~~ license or easement. A Policy Direction is valid for twelve (12) months following committee approval. The Applicant must pay the application fee to the Department of Planning and Land Preservation when the application is submitted and before the application is forwarded to the committees for Policy Direction.

b. After Policy Direction, the next step in the process involves the negotiation and drafting of the easement or license agreement.

c. The Applicant will be asked to review and execute the final draft of the easement or license agreement.

d. The draft long-term license agreement or easement agreement will be presented to the ~~Land Preservation and Acquisition and Finance and Administrative Committees~~ Planning Committee for review and recommendation. If ~~those committees~~ the committee recommend approval, the agreement will be presented to the District's full Board of Commissioners for review. If approved by the Board, the agreement is then executed. Monetary Fees, Tree Compensation Fees, Bonds, and Certificates of Insurance are due immediately following the Board's approval.

67. The Department of Planning and Land Preservation will inform the Applicant of Committee and Board meeting schedules and other relevant dates and deadlines.

II. Tree Compensation Fee.

1. For high quality native trees, shrubs and plants that (i) are located within an ecologically significant area, (ii) are adjacent to an ecologically significant area, (iii) provide critical buffer to the ecosystem, or (iv) provide aesthetic value, the following replacement fees shall apply:

- i) \$600.00 per caliper inch of tree that is removed, damaged, or impacted.
- ii) \$92.00 for each five-gallon potted shrub, or equivalent, that is removed, damaged, or impacted.
- iii) \$3000.00 per 0.5 acres- of plants that are removed, damaged, or impacted.

2. For (i) high quality trees, shrubs, and plants that do not satisfy the criteria of Section II.1, and (ii) medium quality trees, shrubs and plants, the following replacement fees shall apply:

- i) \$300.00 per caliper inch of tree that is removed, damaged, or impacted.
- ii) \$48.00 for each five-gallon potted shrub, or equivalent, that is removed, damaged, or impacted.

- iii) \$1250.00 for each 0.5 acres of plants removed, damaged, or impacted.
3. For low quality trees that are specimen trees, the following replacement fees shall apply:
- i) \$160.00 per low quality tree of at least four inches (4") diameter measured four feet (4') above the ground. (Based on the 2006 USDA Forest Service Report, Midwest Community Tree Guide, Benefits, Costs, and Strategic Planting)
4. Exhibit A contains a list of tree and shrub species divided into high quality, medium quality and low quality. The District's Director of Natural Resources, or his or her designee, may downgrade trees and shrubs to reflect their condition, location, and value and the extent and probability of impact from the proposed use. This list may not be inclusive of all tree and shrubs species on District property. For species not listed in Exhibit A that are removed, damaged, or impacted, the District's Director of Natural Resources shall determine whether it is high quality, medium quality, or low quality.

III. Hourly Rates for Staff Costs.

The hourly rate for Staff Costs shall be \$70^[NM1] per hour.

**** These Rules and Procedures may be updated from time to time as provided in AN
ORDINANCE REGARDING LICENSES AND EASEMENTS ~~FOR PUBLIC SERVICES.~~
This is Version _____ 1 last approved and updated on July 15, December
10, 2019.
2015**

EXHIBIT A

High Quality Trees and Shrubs

Plant Species	Common Name
<i>Acer rubrum</i>	RED MAPLE
<i>Acer nigrum</i>	BLACK MAPLE
<i>Acer saccharum</i>	SUGAR MAPLE
<i>Alnus rugosa</i>	SPECKLED ALDER
<i>Amelanchier arborea</i>	SERVICEBERRY
<i>Amelanchier interior</i>	INLAND SHADBLOW
<i>Amelanchier laevis</i>	ALLEGHENY SHADBLOW
<i>Asimina triloba</i>	PAPAW
<i>Betula alleghaniensis</i>	YELLOW BIRCH
<i>Betula nigra</i>	RIVER BIRCH
<i>Betula papyrifera</i>	PAPER BIRCH
<i>Betula populifolia</i>	GRAY BIRCH
<i>Betula pumila</i>	DWARF BIRCH
<i>Carpinus caroliniana</i> v.	BLUE BEECH
<i>Carya cordiformis</i>	BITTERNUT HICKORY
<i>Carya glabra</i>	PIGNUT HICKORY
<i>Carya laciniosa</i>	KINGNUT HICKORY
<i>Carya ovalis</i>	SWEET PIGNUT HICKORY
<i>Carya ovata</i>	SHAGBARK HICKORY
<i>Carya tomentosa</i>	MOCKERNUT HICKORY
<i>Ceanothus americanus</i>	NEW JERSEY TEA
<i>Ceanothus herbaceus</i>	INLAND NEW JERSEY TEA
<i>Celtis occidentalis</i>	HACKBERRY
<i>Cephalanthus occidentalis</i>	BUTTONBUSH
<i>Cercis canadensis</i>	REDBUD
<i>Corylus americana</i>	HAZELNUT
<i>Cornus alternifolia</i>	PAGODA DOGWOOD
<i>Cornus drummondii</i>	ROUGH-LEAVED DOGWOOD
<i>Cornus florida</i>	FLOWERING DOGWOOD
<i>Cornus obliqua</i>	BLUE-FRUITED DOGWOOD
<i>Cornus rugosa</i>	ROUND-LEAVED DOGWOOD
<i>Cornus stolonifera</i>	RED OSIER DOGWOOD
<i>Crataegus calpodendron</i>	SUGAR HAWTHORN
<i>Crataegus chrysoarpa</i>	FIREBERRY HAWTHORN
<i>Crataegus flabellata</i>	LG-SEEDED HAWTHORN
<i>Crataegus mollis</i>	DOWNY HAWTHORN
<i>Crataegus pruinosa</i>	FROSTED HAWTHORN
<i>Crataegus punctata</i>	DOTTED HAWTHORN

<i>Crataegus succulenta</i>	FLESHY HAWTHORN
<i>Euonymus atropurpureus</i>	BURNING BUSH
<i>Euonymus obovatus</i>	RUNNING STRAWBERRY
<i>Fagus grandifolia</i>	BEECH
<i>Fraxinus americana</i>	WHITE ASH
<i>Fraxinus americana</i> b.	BILTMORE ASH
<i>Fraxinus nigra</i>	BLACK ASH
<i>Fraxinus pennsylvanica</i>	RED ASH
<i>Fraxinus quadrangulata</i>	BLUE ASH
<i>Gymnocladus dioica</i>	KENTUCKY COFFEE TREE
<i>Hamamelis virginiana</i>	WITCH HAZEL
<i>Hibiscus laevis</i>	HALBRED-LEAVED ROSE MALLOW
<i>Hibiscus palustris</i>	SWAMP ROSE MALLOW
<i>Hypericum species</i>	ST. JOHN'S WORT SHRUBS
<i>Ilex verticillata</i>	WINTERBERRY
<i>Juglans cinerea</i>	BUTTERNUT
<i>Juglans nigra</i>	BLACK WALNUT
<i>Juniperus communis</i>	COMMON JUNIPER
<i>Juniperus horizontalis</i>	TRAILING JUNIPER
<i>Larix laricina</i>	TAMARACK
<i>Lindera benzoin</i>	SPICEBUSH
<i>Malus coronaria</i>	WILD SWEET CRAB
<i>Malus ioensis</i>	IOWA CRAB
<i>Menyanthes trifoliata</i> minor	BUCKBEAN
<i>Morus rubra</i>	RED MULBERRY
<i>Nyssa sylvatica</i>	BLACK GUM
<i>Ostrya virginiana</i>	HOP HORNBEAM
<i>Pinus banksiana</i>	JACK PINE
<i>Pinus strobus</i>	WHITE PINE
<i>Platanus occidentalis</i>	SYCAMORE
<i>Populus balsamifera</i>	BALSAM POPLAR
<i>Populus grandidentata</i>	LARGE-TOOTHED ASPEN
<i>Populus tremuloides</i>	QUAKING ASPEN
<i>Potentilla fruticosa</i>	SHRUBBY CINQUEFOIL
<i>Potentilla palustris</i>	MARSH CINQUEFOIL
<i>Prunus nigra</i>	CANADA PLUM
<i>Prunus pensylvanica</i>	PIN CHERRY
<i>Prunus pumila</i>	SAND CHERRY
<i>Quercus alba</i>	WHITE OAK
<i>Quercus bicolor</i>	SWAMP WHITE OAK
<i>Quercus coccinea</i>	SCARLET OAK
<i>Quercus imbricaria</i>	SHINGLE OAK
<i>Quercus macrocarpa</i>	BUR OAK
<i>Quercus muhlenbergii</i>	CHINQUAPIN OAK
<i>Quercus palustris</i>	PIN OAK

<i>Quercus rubra</i>	RED OAK
<i>Quercus velutina</i>	BLACK OAK
<i>Quercus X bebbiana</i>	no common name
<i>Quercus X hawkinsiae</i>	no common name
<i>Quercus X palaeolithicola</i>	no common name
<i>Rhamnus alnifolia</i>	ALDER BUCKTHORN
<i>Rhus vernix</i>	POISON SUMAC
<i>Rhus copallina latifolia</i>	SHINNING SUMAC
<i>Ribes americanum</i>	WILD BLACK CURRANT
<i>Ribes cynosbati</i>	PRICKLY WILD GOOSEBERRY
<i>Ribes hirtellum</i>	NORTHERN GOOSEBERRY
<i>Ribes missouriense</i>	WILD GOOSEBERRY
<i>Rosa arkansana suffulta</i>	SUNSHINE ROSE
<i>Rosa blanda</i>	EARLY WILD ROSE
<i>Rosa carolina</i>	PASTURE ROSE
<i>Rosa palustris</i>	SWAMP ROSE
<i>Rosa setigera</i>	ILLINOIS ROSE
<i>Rubus hispidus</i>	SWAMP DEWBERRY
<i>Rubus odoratus</i>	PURPLE FLOWERING RASPBERRY
<i>Rubus pubescens</i>	DWARF RASPBERRY
<i>Salix amygdaloides</i>	PEACHED-LEAVED WILLOW
<i>Salix bebbiana</i>	BEAKED WILLOW
<i>Salix candida</i>	HOARY WILLOW
<i>Salix eriocephala</i>	HEART-LEAVED WILLOW
<i>Salix glaucophylloides</i>	BLUE-LEAVED WILLOW
<i>Salix humilis</i>	PRAIRIE WILLOW
<i>Salix lucida</i>	SHINNING WILLOW
<i>Salix pedicellaris hypoglauca</i>	BOG WILLOW
<i>Salix petiolaris</i>	MEADOW WILLOW
<i>Sambucus pubens</i>	RED-BERRIED ELDER
<i>Sorbus decora</i>	SHOWY MOUNTAIN ASH
<i>Spiraea alba</i>	MEADOWSWEET
<i>Spiraea tomentosa rosea</i>	STEEPLE BUSH
<i>Staphylea trifolia</i>	BLADDERNUT
<i>Thuja occidentalis</i>	EASTERN WHITE CEDAR
<i>Tilia americana</i>	AMERICAN LINDEN
<i>Vaccinium species</i>	BLUEBERRY/CRANBERRY
<i>Viburnum species</i>	VIBURNUM shrub species - several
<i>Ulmus rubra</i>	SLIPPERY ELM
<i>Ulmus thomasii</i>	ROCK ELM
<i>Xanthoxylum americanum</i>	PRICKLY ASH

EXHIBIT A

Medium Quality Trees and Shrubs

Plant Species	Common Name
<i>Aesculus glabra</i>	OHIO BUCKEYE
<i>Crataegus coccinea</i>	SCARLET HAWTHORN
<i>Crataegus crus-galli</i>	COCKSPUR HAWTHORN
<i>Fraxinus pennylvanica subintegerrima</i>	GREEN ASH
<i>Gleditsia triacanthos</i>	HONEY LOCUST
<i>Juniperus virginiana c.</i>	RED CEDAR
<i>Liriodendron tulipifera</i>	TULIP TREE
<i>Prunus americana</i>	WILD PLUM
<i>Prunus serotina</i>	WILD BLACK CHERRY
<i>Prunus virginiana</i>	CHOKO CHERRY
<i>Rhus glabra</i>	SMOOTH SUMAC
<i>Rhus typhina</i>	STAGHORN SUMAC
<i>Rubus allegheniensis</i>	COMMON BLACKBERRY
<i>Rubus flagellaris</i>	COMMON DEWBERRY
<i>Rubus ideaus strigosus</i>	RED RASPBERRY
<i>Rubus occidentalis</i>	BLACK RASPBERRY
<i>Rubus pensilvanicus</i>	YANKEE BLACKBERRY
<i>Salix discolor</i>	PUSSY WILLOW
<i>Salix nigra</i>	BLACK WILLOW
<i>Salix X glatfelteri</i>	HYBRID BLACK WILLOW
<i>Sambucus Canadensis</i>	ELDERBERRY
<i>Sassafras albidum</i>	SASSAFRAS
<i>Ulmus americana</i>	AMERICAN ELM

EXHIBIT A

Low Quality Trees and Shrubs

<i>Acer negundo</i>	BOX ELDER
<i>Acer platanoides</i>	NORWAY MAPLE
<i>Acer saccharinum</i>	SILVER MAPLE
<i>Aesculus hippocastanum</i>	HORSE CHESNUT
<i>Alnus glutinosa</i>	BLACK ALDER
<i>Betula pendula</i>	EUROPEAN WHITE BIRCH
<i>Cornus racemosa</i>	GRAY DOGWOOD
<i>Elaeagnus angustifolia</i>	RUSSIAN OLIVE
<i>Elaeagnus umbellata</i>	AUTUMN OLIVE
<i>Euonymus alatus</i>	WINGED EUONYMUS
<i>Euonymus europaeus</i>	EUROPEAN SPINDLE TREE
<i>Hiericum perforatum</i>	SPOTTED ST. JOHN'S WORT
<i>Ligustrum obtusifolium</i>	BORDER PRIVET
<i>Ligustrum vulgare</i>	COMMON PRIVET
<i>Phellodendron amurense</i>	AMUR CORK TREE
<i>Maclura pomifera</i>	OSAGE ORANGE
<i>Malus pumila</i>	APPLE TREE
<i>Morus alba</i>	WHITE MULBERRY
<i>Picea mariana</i>	BLACK SPRUCE
<i>Pinus nigra</i>	AUSTRIAN PINE
<i>Pinus pungens</i>	TABLE MOUNTAIN PINE
<i>Pinus rigida</i>	PITCH PINE
<i>Pinus virginiana</i>	SCRUB PINE
<i>Populus alba</i>	WHITE POPLAR
<i>Populus canescens</i>	GRAY POPLAR
<i>Populus deltoides</i>	EASTERN COTTONWOOD
<i>Populus nigra</i>	LOMBARDY POPLAR
<i>Rhamnus cathartica</i>	COMMON BUCKTHORN
<i>Rhamnus frangula</i>	GLOSSY BUCKTHORN
<i>Rhus radicans</i>	POISON IVY
<i>Ribes odoratum</i>	GOLDEN CURRANT
<i>Ribes sativum</i>	RED CURRENT
<i>Robina hispida</i>	BRISTLY LOCUST
<i>Robina pseudoacacia</i>	BLACK LOCUST
<i>Rosa eglanteria</i>	SWEETBRIER
<i>Rosa multiflora</i>	MULTIFLORA ROSE
<i>Rubus idaeus</i>	GARDEN RASPBERRY
<i>Salix alba</i>	WHITE WILLOW
<i>Salix fragilis</i>	CRACK WILLOW
<i>Salix interior</i>	SANDBAR WILLOW

Salix x rubens	HYBRID CRACK WILLOW
Sorbus aucuparia	EUROPEAN MOUNTAIN ASH
Ulmus pumila	SIBERIAN ELM
Viburnum dentatum	ARROW-WOOD
Viburnum lantana	WAYFARING TREE
Viburnum opulus	EUROPEAN Highbush CRANBERRY
Viburnum recognitum	SMOOTH ARROW-WOOD

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