

## 12.20 – Trees and Shrubs

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### 12.20.010 – Definitions

As used within this Chapter, the following terms shall have the meanings set forth in this Section:

- A. “Parkway” – A portion of the right-of-way (“ROW”) between the edge of the pavement structure or curbing and the lot or parcel adjacent to the ROW. The parkway may include sidewalk, driveway, trees, shrubs, seeded and/or sodded lawn areas and utility services as defined in Chapter 12.04.005.
- B. “Arborist” – The City Arborist of St. Charles, Illinois, a position requiring expertise in the field of arboriculture.
- C. “Shrubbery” – A group of low, usually several stemmed woody plants.
- D. “Property Owner” – The record owner or contract purchaser of any parcel of land.
- E. “Tree” – A woody perennial plant having a main stem or trunk exceeding ten feet in height at maturity.
- F. “Root Flare” – The exposed roots that flare out from the base of the tree.
- G. “Volcano Mulching” – Mulch that has been piled up too high around the trunk of the tree similar to a volcano.
- H. “ISA” – International Society of Arboriculture.
- I. Right of Way or ROW – A strip of land occupied or intended to be occupied by a street, sidewalk and/or railroad, and by electrical transmission lines, oil or gas pipelines, water mains, sanitary or storm sewer mains, trees and/or for other special uses. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-ways intended for streets, crosswalks, water mains, sanitary sewers, storm drains, trees or any other use involving maintenance by a public agency shall be dedicated to public use by the make of the plat on which such right-of-way is established as defined by Chapter 12.30.30.

(2018-M-6 : § 1; 2012-M-47 : § 5; 2007-M-56 : § 1; 1998-M-28 : § 1; Prior code : § 12.501)

**12.20.020 – Purpose and intent**

- A. Purpose – The purpose of this Chapter is to:
  - 1. Protect the City’s natural resources, and promote environmental values and stewardship within the community.
  - 2. Protect the public health, safety and general welfare of the community by providing for the regulation of planting, maintenance and removal of trees and shrubs within the City. (Ord. 2012-M-47 § 5.)
- B. Intent – It is the intent of the City Council of St. Charles that the terms of this Chapter shall be construed so as to promote:
  - 1. Environmental programs and awareness, and natural resources conservation and education.
  - 2. Planting, maintenance, restoration and survival of desirable trees and shrubs within the City.
  - 3. The protection of residents from personal injury and property damage, and the protection of the City from property damage, caused or threatened by improper planting, maintenance, or removal of trees and shrubs located within or affecting City owned property or the City right-of-way.

(2018-M-6 : § 2; 2012-M-47 : § 5; 1998-M-28 : § 1)

**12.20.030 – Tree planting requirements**

These requirements shall apply to any planting of trees as a result of subdivision/development or replacement.

- A. Size of Street Trees  
Street trees to be planted or replanted shall have a trunk diameter (measured twelve inches above the ground) of not less than two and one-half inches. All new subdivisions shall have all street parkways planted with trees with a trunk diameter (measured twelve inches above the ground) of not less than two and one-half inches.
- B. Spacing
  - 1. Types of trees which attain a mature height of over fifty feet shall be planted not more than forty feet apart and not less than twenty feet apart nor within twenty feet of another tree outside the property line or within the parkway.
  - 2. Types of trees used that have a mature height of less than fifty feet or are of narrow spreading habit shall be planted not more than thirty feet apart and not less than twenty feet apart nor within twenty feet of another tree outside the property line or within the parkway.
  - 3. Small ornamental types of trees shall be planted not less than fifteen feet apart or within fifteen feet of another tree outside the property line or within the parkway.
- C. Location
  - 1. Trees shall be planted at least five – ten feet from all sidewalks, driveways or other paved areas.
  - 2. Trees shall be centered in the parkway.
  - 3. If the width of the parkway is less than five feet, only small ornamental type trees shall be planted.
  - 4. No tree shall be allowed to be planted if parkway is less than three feet.
  - 5. Trees shall be at least twenty feet from the property corner at all street intersections.
  - 6. On corner lots, no planting shall be maintained higher than thirty inches above the centerline grade of the lowest intersecting street if located within the triangular portion of a front or side yard situated within twenty feet of a lot corner formed by the intersection of any two street right of way lines.
  - 7. Only small ornamental type trees shall be planted under all overhead electric power lines.  
(Ord. 2007-M-56 § 1)
- D. Tree Species  
Selection of street trees shall give preference to species native to the Northern Illinois region. All trees shall be transplanted from stock grown in Northern Illinois. The following list of trees is restricted from use in any area covered by this ordinance.

<b>Common Name</b>	<b>Scientific Name</b>
Maple - Norway	Acer Platanoides
Weeping	Salix Niba

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<b>Common Name</b>	<b>Scientific Name</b>
Poplars (except Cottonless Cottonwood)	Populus Albo and Others
Box Elder	Acer Negundo
Tree of Heaven	Ailanthus Altissima
Chinese Elm	Ulmus Siberica
Female Ginkgo	Ginkgo Biloba - Female
Mulberry	Morus Alba and Others
Black Locust	Robinis Pseudoscacis
Sycamore	Platanus Occidentalis
Maple - Silver	Acer Saccharinum
All Fruit Trees	
All Ash Trees	
Pine or Spruce Trees	
Russian Olive	Elaeagnus Angustifolia
Amur Cork Tree	Amurense
Cherry – Ornamental	Prunus Avium
Chokecherry – Canada Red	Prunus Virginiana Canada Red
Fringetree	Chionanthus Virginicus
Pear – Callery	Pyrus Calleryana

(2019-M-9 : § 1; 2007-M-56 : § 1; 1998-M-28 : § 1; 1992-M-66 : § 1; 1992-M-47 : § 1; 1988-M-98 : § 1; 1986-M-63 : § 12.502; Prior code : § 12.503; 12.504; 12.505; 12.507; and 12.508)

### **12.20.040 – Natural Resources Commission: establishment, composition, appointment of members**

- A. Establishment – The St. Charles Natural Resources Commission (hereinafter “NRC” {formerly the St. Charles Tree Commission}) is hereby established and incorporates the functions and duties of the former Tree Commission. The NRC’s functions and duties are limited to those set forth in this chapter.
- B. Composition – The NRC shall be composed of eleven commissioners. All commissioners shall be appointed by the Mayor with the approval of the City Council. All commissioners shall serve without pay. Subject to the exceptions in paragraph “C” immediately below, each commissioner shall serve for a term of four years.
- C. Appointment of Members – Five (5) of the eleven (11) commissioners initially appointed to the NRC shall serve for a term of two (2) years; six (6) of the eleven (11) commissioners initially appointed shall serve for a term of four (4) years. Terms shall start on May 1. Determination of the initial term length (two or four year) shall be by lot. The Chairperson of the NRC shall be elected by majority vote of the NRC and shall be subject to re-election annually on May 1. The NRC may also include one (1) or more, not exceeding four (4), non-voting member(s) who shall be a high school student and/or college student resident having an interest in the duties and mission of the NRC. Student members shall be appointed by the NRC and shall serve on the NRC for a minimum of one (1) school semester and a maximum term of two (2) years. Student members may be appointed to the NRC at the age of eighteen (18) if a vacancy exists on the NRC.
- D. Expiration or Vacation of Terms – Within thirty days following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the City Council, and the successor shall serve for a term of four (4) years. Should any commissioner resign or be removed from the NRC, a successor shall be appointed by the Mayor with the approval of the City Council and shall serve for the unexpired period of the vacated term. A member of the NRC may be removed by the Mayor with the approval of a majority of the City Council.
- E. Official Meetings – The NRC shall meet twelve (12) times per year on the second Thursday of every calendar month.

(2018-M-6 : § 3; 1998-M-32 : § 1; 1998-M-28 : § 1)

### **12.20.050 – Natural Resources Commission duties**

- A. Duties – The NRC shall perform the following duties:
  - 1. Within a reasonable time after the appointment of the NRC, upon call of the Chairperson of the NRC, the NRC shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Chapter.
  - 2. Serve as a resource and advocate to City Government in developing policies and practices in an environmentally conscious manner.
  - 3. The NRC shall advise and consult the City’s Government Services Committee on any matter pertaining to the topics covered in this Chapter and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
    - a. Amendment to this Chapter and alteration or revisions of the Urban Forestry Management Plan;
    - b. Policy concerning matters of City business as outlined in this Chapter;
    - c. investigation into practices of green infrastructure, sustainable business practices and programs, native species and ecological restorations and other matters of importance that may influence the City’s environmental footprint.
    - d. Establishment of educational and informational programs including, but not limited to, natural resources conservation, environmental awareness and behavior, public health, an annual Arbor Day celebration and the City’s Tree City USA designation. (Ord. 2012-M-47 § 5.)
    - e. Investigate and recommend to the City’s Public Works Department and the City Council as it may consider appropriate to support:

Preservation, conservation, education, enhancement and protection of the environment, natural resources and environmental values of the City, including the quality of land, air and water and the interrelationship that exists between them and all biotic systems.

All recommendations by the NRC and information resulting from the NRC’s activities shall be forwarded to the designated representative of the City’s Public Works Department and the City Council.

- f. Advise the City Council on such matters as may be requested.

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4. The NRC, with the assistance of the City's Public Works Department and City Arborist, shall update the Urban Forestry Management Plan annually. The Urban Forestry Management Plan shall outline the City's urban forestry program activities for the next five (5) years. The Urban Forestry Management Plan shall describe the urban forestry activities to be undertaken by the City, the reasons for those activities, the possible funding source(s), the means of accomplishing the activities, the alternatives available to the City to fund or accomplish the activity, the projected date of completion and the consequences if the activity is not completed. Activities include, but are not limited to, street tree inventory, planting, pruning, tree removal, beautification projects and educational projects.
5. The NRC, with the assistance of the Public Works Department and the City Arborist, shall develop and periodically review and revise, as necessary, the City's Trees and Shrubs ordinance. This ordinance shall contain regulations and standards for the planting, maintenance and removal of trees and shrubs upon City-owned property and the City right-of-way. (Ord. 2012-M-47 § 5.)
6. The NRC shall cause the Urban Forestry Management Plan and the Trees and Shrubs Ordinance, and all revisions and amendments to it, to be published and promulgated and shall cause copies of the ordinance and all revisions and amendments to it, to be available for public inspection at the office of the City Clerk. The Trees and Shrubs Ordinance and any revisions and additions thereto shall become effective upon the approval date of the ordinance or revision or amendment thereto.
7. The NRC shall inform the public about the activities of the NRC.
8. The City shall issue such permits as are required by this Chapter and shall obtain as a condition precedent to the issuance of such permits the written agreement of each person who applies for such permits that he or she will comply with the requirement of this Chapter, the Urban Forestry Management Plan and with the regulations and standards of the Trees and Shrubs Ordinance. The City's Public Works Department shall have the right to inspect all work performed pursuant to such permits. If the City's Public Works Department finds that the work performed is not in compliance with the requirements of this Chapter, the Urban Forestry Management Plan or with the regulations or standards of the Trees and Shrubs Ordinance, the Public Works Department shall provide written notice of its findings to the permit applicant. The notice shall contain a copy of Section 12.20 of this Chapter, and the permit shall be nullified and voided. The City's Public Works Department may issue a written order that the permit applicant cease and desist all work for which the permit was required. The permit applicant shall be subject to penalty under the terms of the Ordinance. The City's Public Works Department may take steps to correct the results of the non-complying work and the reasonable costs of such steps shall be charged to the permit applicant.

### B. Public Utility Companies

1. Nothing in this section shall be construed to exempt public utility companies or their agents from any of the requirements of this Ordinance

(2018-M-6 : § 4; 1998-M-28 : § 1)

## 12.20.060 – Permits

### A. Scope of Requirements

No person or contractor may perform any of the following acts without first obtaining from the City, a permit for which no fee shall be charged. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law. Persons obtaining such permits must have a qualified tree expert. No work shall be done without the City's Arborist approval.

1. Plant on city-owned property or right-of-way, remove or otherwise disturb any tree, shrub, or stump located on city-owned property. Except that this provision shall not be construed to prohibit owners of property adjacent to city-owned property from watering, pruning or fertilizing without a permit, any tree or shrub located on such city-owned property.  
(Ord. 2012-M-47 § 5.)
2. Trim, prune or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on city-owned property and thereby to cause damage to persons or property.
3. Mulch applied to City R.O.W. trees must meet with ISA standards. Mulch should not be in contact with trees. No volcano mulching. Mulch should be 2"- 4" thick but dished at trunk to keep mulch from contacting trunk.
4. Planter boxes that are added after a tree has been planted can only be approximately 4"- 6" higher than root flare. Materials added to box cannot cover root flare or come into contact with trunk. No existing planter boxes can be grandfathered in. Any plants or planter boxes damaged in the removal or maintenance of tree is homeowner's responsibility.

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5. No vegetation shall be planted that interferes with the inspection of the root flare or trunk for parkway tree. Any damage or removal to said vegetation shall not be replaced and is not the responsibility of the City of St. Charles.
6. Place on city-owned property or right-of-way, either above or below ground level, a container for trees or shrubs.
7. Damage, cut, tap, carve or transplant any tree or shrub located on city-owned property or right-of-way.
8. Attach any rope, wire, nail, sign, poster or any other man-made object to any tree or shrub located on city-owned property.  
(Ord. 2012-M-47 § 5.)

### B. Issuance

Within seven days of receipt of the application, the Public Works Department shall issue a permit to perform within thirty days of the day of issuance any of the acts specified in Parts (A) and (B), immediately above, for which a permit is requested whenever:

1. Such acts would result in the abatement of a public nuisance; or
2. Such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Tree and Shrub Ordinance; and whenever
3. An application has been signed by the applicant and submitted to the Public Works Department detailing the location, number, size and species of trees or shrubs, that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Public Works Department may find reasonably necessary;  
(Ord. 2012-M-47 § 5.)
4. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Ordinance, the Urban Forestry Plan.
5. The applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Chapter and of the Ordinance which are pertinent to the work for which the permit is sought.
6. If the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon city-owned property or right-of-way, and if such felling is done by one other than the owner of the property on which such felling is done, the applicant agrees to indemnify and to hold the city of St. Charles harmless for all damages resulting from work conducted pursuant to the permit and deposits with the City Clerk a Liability Insurance Policy in the amount of \$100,000 per person/\$300,000 per accident for Bodily Injury Liability and \$50,000 aggregate for Property Damage Liability, which policy shall name St. Charles as an additional insured.

### C. Public Utility Companies

Nothing in this section shall be construed to exempt public utility companies or their agents from any of the requirements of this Ordinance.

### D. Exceptions

The following persons are exempt from permit requirements noted above:

1. The Public Works Department
2. Persons hired by or agents of the Public Works Department with proof of insurance
3. Persons performing work within city right of way authorized by an approved subdivision
4. Building permit or right-of-way permit
5. Those acts which the Director of Public Works determines are immediately necessary because of public health and safety hazards

(2007-M-56 : § 1; 1998-M-28 : § 1)

**12.20.070 – Public nuisance – Trimming or removal required**

A. Definition

The following are hereby declared public nuisances under this Chapter:

1. Any dead or dying tree or shrub, whether located on city-owned property or right-of-way or which affects or may affect city owned property or right-of-way;
2. Any otherwise healthy tree or shrub, whether located on city-owned property or right-of-way, which harbors insects or diseases which reasonably may be expected to injure or harm any tree or shrub;
3. Any tree or shrub, or portion thereof, whether located on city-owned property or right-of-way, or on private property, which affects or may affect city-owned property or right-of-way, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;
4. Any tree or shrub or portion thereof whether located on city-owned property, or right-of-way, private property which affects or may affect city-owned property or right-of-way, which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a traffic control device on city property; (Ord. 2012-M-47 § 5.)

B. Right to Inspect

The officers, agents, servants and employees, of the city have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part which is reasonably suspected to be a public nuisance, but only to the extent necessary to confirm whether a public nuisance exists.

C. Abatement

The following are the prescribed means of abating public nuisances under this chapter;

1. Any public nuisance under this chapter which is located on city-owned property or right-of- way shall be pruned, removed or otherwise treated by the Public Works Department in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
2. Any public nuisance such as: Dutch elm disease, Emerald ash borer, and Oak wilt but not restricted to only these nuisances under this chapter which is located on privately-owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
  - a. The Public Works Department shall cause a written notice to be personally served or sent by Certified Mail to the person to whom was sent the tax bill for the general taxes for the last preceding year, or an adult resident or operator of the premises;
  - b. Such notice shall describe by legal description or by common description the premises;
  - c. Such notice shall state the actions that the property owner or occupant may undertake to abate the nuisance;
  - d. Such notice shall require the elimination of the nuisance within thirty days of the date of service of the notice, or such shorter period of time as is deemed necessary for public safety and welfare by the Public Works Department.
  - e. In the event that the nuisance is the Emerald Ash Borer (EAB) the resident shall have until the end of the current or next flight season, as the case may be, to remove infested trees. Flight season runs from May 1 through July 31.  
(Ord. 2008-M-75 § 1.)
3. The Public Works Department is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Public Works Department to be an immediate threat to any person or property.

(2007-M-56 : § 1; 1998-M-28 : § 1; Prior code : § 12.509)

**12.20.080 – Care and maintenance required**

Proper maintenance and care shall be given all newly planted trees and shall be replaced by the party responsible for the new tree if not alive one year after date of planting. The party responsible for maintenance of right-of-way parkway should also be responsible for maintenance (water, fertilizer) of trees in the parkway.

(1998-M-28 : § 1)

### **12.20.100 – Wires and poles**

It is unlawful to attach any wire or rope to any tree or shrub on any public street, parkway or other public place without the permission of the director of special services. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall in the absence of provision in the franchise covering the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as possible, and shall keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Director of Public Works or his designee, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

(1998-M-28 : § 1; Prior code : § 12.510)

### **12.20.110 – Violation and penalty**

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of chapter, upon being found guilty of violation, shall be subject to a fine not to exceed Seven Hundred Fifty (\$750.00) Dollars for each separate offense, and each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If, as the result of the violations of any provisions of this Ordinance, the injury, mutilation or death of a tree or shrub located on city-owned property or right-of-way is caused, the cost of repair or replacement of such tree or shrub shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens, as published by the International Society of Arboriculture.

(2012-M-47 : § 5; 1998-M-28 : § 1; Prior code : § 12.511)