



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion of Ash Trees affected with EAB on Private Property
– Information only

Presenter: Peter Suhr

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 05.29.12
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	

Estimated Cost:		Budgeted:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If NO, please explain how item will be funded:

Executive Summary:

At the April, 2012 meeting, while the committee provided direction for removal and replacement of public ash trees, it was suggested that staff initiate discussion about private ash trees that are affected by the Emerald Ash Borer.

The City of St. Charles Public Works Department does NOT have inventory of private trees and therefore cannot confirm the count, condition or size of the ash population. Currently, the City does not own or engage in the maintenance or removal of private trees. However private trees, including ash trees, are referenced in our City Ordinance under Chapter 12.20 “Trees and Shrubs” and states that “if a tree condition constitutes an imminent danger to the health, safety or welfare of the general public”, that tree is declared a public nuisance. If a private tree is declared a public nuisance, “it shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause abatement of the nuisance.” The cost for any abatement process is to be paid by the homeowner.

To date, the Public Works Department has not initiated a program to assess private ash trees for a nuisance and therefore have not sent any written notice to our citizens.

Attachments: *(please list)*

Ordinance - Chapter 12.20 – “Trees and Shrubs”

Recommendation / Suggested Action *(briefly explain):*

Information only.

For office use only:

Agenda Item Number: 4.e

TREES AND SHRUBS

8. Attach any rope, wire, nail, sign, poster or any other man-made object to any tree, shrub or other plant located on city-owned property.
- 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, shrubs or other plants 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;
 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

(Ord. 2007-M-56 § 1; Ord. 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, shrub or other plant, 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, shrub or other plant, 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, shrub or other plant;
 3. Any tree, shrub, other plant 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, shrub or other plant 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;

TREES AND SHRUBS

- 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.

(Ord. 2007-M-56 § 1; Ord. 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.

(Ord. 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.

(Ord. 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

TREES AND SHRUBS

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, shrub or other plant located on city-owned property or right-of-way is caused, the cost of repair or replacement of such tree, shrub or other plant 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. (Ord. 1998-M-28 § 1; Prior code § 12.511)