

Chapter 12.20

TREES AND SHRUBS<sup>4</sup>

Sections:

12.20.010	Definitions.
12.20.020	Purpose and intent.
12.20.030	Tree planting requirements.
12.20.040	Tree Commission: establishment, composition, appointment of members.
12.20.050	Tree Commission: duties.
12.20.060	Permits.
12.20.070	Public nuisance—trimming or removal required.
12.20.080	Care and maintenance required.
12.20.100	Wires and poles.
12.20.110	Violation—penalty.

**12.20.010 Definitions.**

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

- A. **“Parkway”** means a strip of land is part of the dedicated street right-of-way extending from the edge of the street pavement or curb line to the right-of-way property line.
- B. **“Arborist”** The City Arborist of St. Charles, Illinois, a position requiring expertise in the field of arboriculture.
- C. **“Shrubbery”** means a group of low, usually several stemmed woody plants.
- D. **“Property Owner”** The record owner or contract purchaser of any parcel of land.
- E. **“Other Plants”** All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.
- F. **“Tree”** means a woody perennial plant having main stem or trunk exceeding ten feet in height at maturity.
- G. **“Root Flare”** means the exposed roots that flare out from the base of the tree.
- H. **“Volcano Mulching”** means mulch that has been piled up too high around the trunk of the tree similar to a volcano.
- I. **“ISA”** means International Society of Arboriculture.
- J. **“R.O.W.”** means right-of-way.

(Ord. 2007-M-56 § 1; Ord. 1998-M-28 § 1; Prior code § 12.501.)

**12.20.020 Purpose and intent.**

- A. Purpose – It is the purpose of this Chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the city.
- 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. The planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the city;
  2. The protection of community residents from personal injury and property damage, and the protection of St. Charles from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs or other plants located within or affecting city owned property or city right-of-way.

(Ord. 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.

## TREES AND SHRUBS

- 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.

Common Name	Scientific Name
Norway Maple Species	Acer Platanoides
Weeping Willow	Salix Niba
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
Seedline from soft (silver) maple	Acer Saccharinum
All fruit trees	
All Ash trees	
Pine or Spruce trees	
Russian Olive	Elaeagnus angustifolia

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

## TREES AND SHRUBS

### 12.20.040 **Tree Commission: establishment, composition, appointment of members.**

- A. **Establishment** – The St. Charles Tree Commission (hereinafter “Tree Commission”) is hereby established. Its functions and duties are limited to those set forth in this chapter.
- B. **Composition** – The St. Charles Tree Commission shall be composed of nine commissioners. All commissioners shall be appointed by the Mayor with the approval of the 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** – Four of the nine commissioners initially appointed to the Tree Commission shall serve for a term of two years; five of the nine commissioners initially appointed shall serve for a term of four 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 Tree Commission shall be elected by majority vote of the Tree Commission and shall be subject to re-election annually on May 1.
- 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 Council, and the successor shall serve for a term of four years. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor with the approval of the Council and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the approval of a majority of Council.

(Ord. 1998-M-32 § 1; Ord. 1998-M-28 § 1.)

### 12.20.050 **Tree Commission duties.**

- A. **Duties** – The Tree Commission shall perform the following duties:
  - 1. Within a reasonable time after the appointment of the Tree Commission, upon call of the Chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Chapter.
  - 2. The Tree Commission shall advise and consult the Government Services Committee on any matter pertaining to the matters 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 Plan;
    - b. Policy concerning selection, planting, maintenance, and removal of trees, shrubs and other plants within the City;
    - c. Recommend allocation of funds and expenditures of funds by Department of Public Works for planting and maintenance of trees and shrubs on city-owned property or right-of-way.
    - d. Establishment of educational and informational programs including, but not limited to, yearly Arbor Day celebration.
  - 3. The Tree Commission, with the assistance of the Public Works Department and City Arborist, shall develop, and each subsequent year, update the urban Forestry plan. The plan shall outline urban forestry program activities for a minimum of the next five years. This 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 may include, but are not limited to street tree inventory, planting, tree removal, beautification projects and educational projects.
  - 4. The Tree Commission, with the assistance of the Public Works Department and the City Arborist, shall develop and periodically review and revise, as necessary, the Trees and Shrub ordinance. This ordinance shall contain regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon city-owned property and right-of-way.

## TREES AND SHRUBS

5. The Tree Commission shall cause the Urban Forestry Plan and the Trees and Shrub 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 Shrub Ordinance and any revisions and additions thereto shall become effective upon the effective date of any ordinance approving the ordinance or revision or amendments thereto.
6. The Tree Commission shall inform the public about the activities of the Tree Commission.
7. 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 Plan and with the regulations and standards of the Tree and Shrub Ordinance. The Public Works Department shall have the right to inspect all work performed pursuant to such permits. If the Public Works Department finds that the work performed is not in compliance with the requirements of this Chapter, the Urban Forestry Plan or with the regulations or standards of the Tree and Shrub Ordinance, the Public Works Department shall provide written notice of his/her finding to the permit applicant. The notice shall contain a copy of Section 12.20 of this Chapter, and the permit shall be nullified and shall be void and the 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 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** – Nothing in this section shall be construed to exempt public utility companies or their agents from any of the requirements of this Ordinance.

(Ord. 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, stump or other plant 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, shrub or other plant located on such city-owned property.
  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.
  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, shrubs or other plants.
  7. Damage, cut, tap, carve or transplant any tree, shrub or other plant located on city-owned property or right-of-way.

## 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)