

ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR THE REGULATION
OF THE PLANTING, MAINTENANCE AND REMOVAL
OF TREES, SHRUBS AND OTHER PLANTS**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OTTAWA, ILLINOIS,
AS FOLLOWS:**

Section One:

Purpose: It is the purpose of this urban forestry ordinance to promote and protect the public health, environment, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the City of Ottawa, Illinois, (hereinafter referred to as “Ottawa” or “City”).

Section Two:

Intent: It is the intent of the City Council of Ottawa that the terms of this ordinance shall be construed so as to promote:

A. To provide for the beautification of Ottawa and to enhance the aesthetic value of the plantings, maintenance, restoration and survival of desirable trees, shrubs and other plants within the City; and

B. The protection of community residents from personal injury and or property damage, and the protection of Ottawa from property damage caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within the community; and

C. To provide a quality environment for the community by minimizing the effects of plant disease, fungi, pestilence or storm damage on the urban forest of Ottawa.

Section Three:

Applicability: This Ordinance provides full power and authority over all trees, plants and shrubs located within street rights of way and public places of Ottawa and areas heretofore described; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

Section Four:

Authority and Power: The administration of the comprehensive tree care program as established by this ordinance shall be the responsibility of the Ottawa Tree Board which shall consist of a minimum of five members and a maximum of nine members who shall meet the residency requirements set by the Council of the City of Ottawa, appointed by the Mayor with approval of the Council. Members of the board shall serve without compensation.

Section Five:

Permits: (A) It shall be unlawful on public property for any person or commercial enterprise receiving remuneration to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or other plants within the City without first having secured a permit therefor. Applications for such commercial tree care permits shall be made to the City Clerk. Permit holders shall agree to abide by all of the provisions of this ordinance. Permit for commercial tree care shall cost \$100.00 and must be renewed annually.

(B) A non-commercial tree care permit will be required by homeowners and other residents (no fee) to perform any tree planting, care or removal on public property adjacent to their property.

Homeowners performing maintenance tasks adjacent to their property must obtain a non-commercial tree care permit except for fertilizing and watering or pruning limbs less than two

inches (2") in diameter. This permit must be obtained prior to the performance of any tree care or removal on public property. Failure to obtain the required permit shall constitute a violation of this ordinance and subject the violator to the penalty provisions of this ordinance.

Section Six:

Permit For Commercial Tree Care: Persons or enterprises subject to the commercial permit section of this ordinance shall obtain this permit by June 1 of the next calendar year following the date of passage of this ordinance, which permit must be renewed annually by June 1 of each subsequent year.

Section Seven:

Insurance: Before any commercial tree care permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of five hundred thousand dollars (\$500,000.00) for bodily injury or death for each occurrence and three hundred thousand dollars (\$300,000.00) property damage for each occurrence indemnifying Ottawa or any person injured or damaged resulting from the pursuit of such endeavor as herein described and shall abide by all of the provisions in this ordinance.

Section Eight:

Tree Fund: The City Council shall establish an interest bearing account known as the "Ottawa Tree Fund" to accept private contributions from individual citizens, businesses and corporations, deposits of performance bonds from developers for new subdivisions, fees for commercial tree care permits and fines and liens from violations of this ordinance.

Funds from this account will be dispersed by Council approval to fund tree planting projects, education, maintenance, and emergency removal of trees on public property as recommended by the Ottawa Tree Board.

Performance bonds held on deposit in the Ottawa Tree Fund will be released to the developer or their successor or assignee who deposited said bond upon satisfactory completion of the required number of tree plantings in the allotted time period. If the required number of trees are not planted within the time allowed, the City Council or its designee, shall have the power to finish planting the required trees and deduct the cost from the bond on deposit. If the bond on deposit is not sufficient to cover the cost of the required tree plantings performed by the City, the City shall take action to recover the additional cost from the developer who is responsible for the development. Any such bond proceeds remaining after planting by the City shall be refunded to the original depositor, successor or assignee. The release of said performance bond will be done by City Council authorization and approval.

Section Nine:

Landscaping: In new residential subdivisions or when the development of commercial or employment property occurs, the Plan Commission will review landscaping plans before final approval of any new plat and shall require street trees to be planted in any of the parkways and other public places abutting lands henceforth developed and/or subdivided as required by this ordinance. To the extent of any conflict between the provisions of this ordinance and the provisions of the Zoning Ordinance or Subdivision Ordinance, the provisions of this ordinance shall govern.

Trees planted in the parkway of new residential subdivisions shall be provided at the equivalent of two trees per residential lot, and on corner lots at the equivalent of five (5) trees per residential corner lot from the permitted species list.

Residential lots located on cul de sacs or where the configuration of the lots will not allow the minimum planting of two (2) trees per lot as normally required under this ordinance due to

the minimum spacing permitted may be exempted from the minimum tree planting requirement.

The tree planting locations must have acceptable clearance around utilities, establish safe lines of sight at intersections, not interfere or block from clear view any traffic control device or sign, and not restrict the flow of vehicle or pedestrian traffic. On State designated highway routes within the corporate limits of the City, the rules and regulations enforcing the planting, spacing and permitted species will be set by the Illinois Department of Transportation. A copy of their current specifications will be kept on file by the City Clerk for reference when needed.

In new residential subdivisions or commercial development or in mass plantings of 25 or more trees anywhere in the City, no one tree species can make up more than twenty five percent (25%) of the planting stock.

The developer of the residential subdivision will be required to plant the required number of trees per lot type, within one (1) year of transfer of title to the new home owner during the proper planting season, the spring and fall. A performance bond of \$500.00 per residential lot shall be submitted to the City Clerk to ensure compliance with this ordinance. The developer shall ensure the proper care and maintenance for one year, from date of planting. If tree (s) need to be replaced the developer will be responsible for that cost.

This list of approved and prohibited street tree species as set forth in this ordinance shall be reviewed and revised every five (5) years, or as needed, by the Ottawa Tree Board.

No multi-stemmed trees or clump form shall be allowed as street trees in the City parkway.

Section Ten:

Tree Planting, Maintenance and Removal:

Tree species: Permitted and prohibited trees for street planting shall be as identified by Exhibits A & B respectively, which are attached hereto and incorporated herein by reference,

and in accordance with the City Zoning Ordinance and City Subdivision Ordinance. Permitted trees are outlined into three (3) size classes: small, medium and large.

Spacing: The spacing of street trees shall be in accordance with the three (3) species size classes listed in this ordinance. No street trees may be planted closer together than as follows: small trees, 20 feet; medium trees, 25 feet; and large trees, 30 feet; except that special plantings may be clustered as determined appropriate by the Ottawa Tree Board.

Size: No street tree selected for planting shall be less than two inches (2") in diameter, as measured twelve inches (12") above the establish ground level, in accordance with the American Nurseryman's Association standards.

Utilities: No street trees other than those species listed herein as small trees that will reach a maximum height of 20 feet may be planted under or within ten (10) lateral feet of any overhead utility line and no tree may be planted within five (5) lateral feet for any underground water line, sewer line, transmission line or other utility. Exceptions may be made at the discretion of the Ottawa Tree Board contingent upon specific planting conditions and species of trees.

Distance from Curb and Sidewalk: The distance from the curb and sidewalk shall be determined by the factors stated above and at the end of this ordinance and as approved by the Ottawa Tree Board.

When pruning, trimming or cutting on any tree on public property, said pruning, trimming or cutting will be done according to the generally accepted practices and guidelines of the International Society of Arboriculture.

Section Eleven:

Topping of Trees is Prohibited: It shall be unlawful as a normal practice for any person

or City department to top any street tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical may be exempted as determined by the Ottawa Tree Board. If an exempted public or private tree is necessarily topped due to storm damage or other causes, it shall be the discretion of the City Council or their designee or private property owner to request complete removal and replacement at the property owner's expense with a tree from the permitted species list appropriate for that location.

Section Twelve:

Adjacent Landowner Responsibility: No person shall plant, remove, cut above the ground, change grade levels, or disturb any tree on any street or other public place without first filing an application and procuring a permit from the City Clerk. The person receiving the permit shall abide by the standards set forth in this ordinance.

Section Thirteen:

Health or Insect and Disease Ridden Trees: Diseased trees: Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees or threatens to spread disease or insect infestations, the designee of the City Council shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in such notice.

Section Fourteen:

Landmark Trees: The Ottawa Tree Board shall determine the location, selection and

identification of any public tree(s) or private tree(s) (at the request of the owner by formal application in writing) which qualify as “landmark trees.” A tree may qualify as a landmark tree if it meets one or more of the following specifics: species rarity, old age, association with an historical event or person, abnormality, scenic enhancement or other qualification as determined by the Ottawa Tree Board. If a tree has been awarded “landmark” status by the Ottawa Tree Board it will be unlawful to:

1. Affix any sign to the tree.
2. Construct anything in the tree.
3. Attach a fence.
4. Place anything in such a manner as to obstruct the growth of the tree.
5. Affix any bolts, nails, screws or hardware of any nature unless it is in the best interest or necessary to the well-being of the tree.
6. Remove or trim any landmark tree without prior written notification to the Ottawa Tree Board 30 days prior to such action except when emergency situations prevent proper notice. If a landmark tree must be removed or trimmed during an emergency situation, notice of that emergency action must still be filed with the Ottawa Tree Board, within 30 days of that action.

Section Fifteen:

Abuse, Mutilation or Injury: No person without lawful authority, shall willfully injure, deface, disfigure, cut, carve, transplant, remove, destroy, attach any rope, wire, nail, advertising posters, election posters or other contrivance to any public tree, allow any gaseous, liquid, chemical or solid substance which is harmful to such public tree come into contact with it; set fire to or permit any fire to burn when such fire or the heat there from will injure any portion of

any tree located on City-owned property; or cause reasonably avoidable damage to the root system by excavation, trenching or tunneling.

Section Sixteen:

Tree Protection: At construction sites where existing public trees could be damaged, some form of protective fencing with signage will be placed around existing public trees not directly located on the building site as designated by the local building official to reasonably protect said public trees during the construction process, creating a safe tree zone as defined by two times the tree drip line. Approved practices for changes in grade around existing public trees will be limited to two (2) inches in maximum fill as authorized by the City Building Official.

Section Seventeen:

Private Trees:

Evaluation: The City Council or an official designee has the authority to enter onto private property with the consent of the property owner, to determine for the purpose of evaluating a suspected hazard, any tree, shrub, plant or plant part which is suspected to be a public nuisance as follows:

1. Any tree with an infectious disease or insect problem.
2. Dead or dying trees.
3. A tree or limb(s) that obstructs street lights, traffic signs or the free passage of pedestrians or vehicles.
4. A tree that poses a threat to safety.

Serving notice: The private party involved shall be notified in writing as to the result of the evaluation. Terms and conditions for rectifying the problem and penalties for noncompliance

will be described in the written notice. Should a tree be determined to constitute a public nuisance and require removal, the cost thereof shall be the property owners.

Section Eighteen:

Enforcement: The City Council shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right of way of any street, alley, sidewalk or other public place in the City. If a tree on private property is determined to be a public nuisance or hazard, the enforcement officer shall cause written notice of said nuisance be personally served or sent by registered mail to the person whom was sent the property tax bill for the last preceding year. The City Attorney is empowered to seek from any court of competent jurisdiction an order directing immediate abatement of any such public nuisance.

Section Nineteen:

Interference with Inspection: No person shall unreasonably hinder, prevent, delay or interfere with the official designee appointed by the City engaged in the execution and or enforcement of this ordinance.

Section Twenty:

Assessment of Claim: In the event that a nuisance is not abated by the date specified in the notice, the City Council is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as lien against the property on which the nuisance was located. In addition, the owner of the property which the nuisance was located shall be subject to prosecution. Any and all liens collected will be deposited in the Ottawa Tree Fund.

Section Twenty-One:

Penalties, Claims and Appeals: Any person who violates any provision of this ordinance or who fails to comply with notice issued pursuant to provisions of this ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed five hundred dollars (\$500.00) (unless otherwise previously specified), for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provisions of this ordinance, the injury, mutilation or death of a tree, shrub or other plant located in the City owned property 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 by the latest version of Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens as published by the International Society of Arboriculture. Any and all funds collected by this provision of the ordinance shall be deposited in the Ottawa Tree Fund.

Section Twenty-Two:

Severability: If any provision of this ordinance or application thereof to any person or circumstance is held invalid, other provisions or applications of the ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this ordinance are declared to be severable.

Section Twenty-Three:

Any ordinance or part thereof heretofore adopted which is inconsistent or in conflict with this Ordinance is hereby repealed to the extent of any such inconsistency or conflict.

Section Twenty-Four:

This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form.

Passed and Approved this _____ day of _____, 1999.

Ayes:
Nays:
Absent:

Robert M. Eschbach, Mayor

Attest:

Elizabeth A. Taylor, City Clerk

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Exhibit A

Permitted Species Along City Street and Public Right- of-Ways:

Small Trees

Maximum height: 20 feet

Minimum spacing between trees: 20 feet

Minimum parkway width: 5 feet

Amur Maple (tree form)

Japanese Maple

Shadblow Serviceberry (tree form)

Apple Serviceberry (tree form)

American Hornbeam

Flowering Dogwood

Japanese Dogwood

Hawthorn (thornless; disease resistant)

Flowering Crab (scab resistant varieties)

Japanese Tree Lilac

American Redbud

Autumn Blaze Flowering Pear

Medium Trees

Maximum heights: 50 feet

Minimum Spacing between trees: 25 feet

Minimum parkway width: 6 feet

Red Maple

Crimson King Maple

Black Alder

River Birch (single stem only)

European Hornbeam

Locust: Purple Robe

Exhibit A-1

Sunburst

Skyline

Shademaster

Katsuratree

Black Mount Ash

Showy Mountain Ash

Yellowwood

Turkish Filbert

Ironwood

Amur Cork Tree

Sargent Cherry

Flowering Pear

Large Trees (trees greater than 50 feet in height)

Minimum spacing between trees: 30 feet

Minimum parkway width: 8 feet

Maple:

Sugar

Norway

Red Sunset

Autumn Blaze

Hackberry

Sugar Hackberry

Ash:

White

Autumn Purple

Green

Blue

Summit

Cimmaron

Exhibit A-2

Gingko (male)

Kentucky Coffeetree (male)

Sweetgum

Tuliptree

Cucumber Tree

White Oak

Swamp White Oak

Shingle Oak

Bur Oak

English Oak

Red Oak

Bald Cypress

Basswood

Linden:

 Littleleaf

 Silver

 Redmond

 Greenspire

Chestnut American

Zelkova

Hybrid Elms (resistant to Dutch Elm disease)

Exhibit B

Prohibited Species along City Streets and Public Right-of-Ways:

Siberan Elm	(Ulmus Pumila)
Slippery Elm	(Ulmus Rubra)
Poplar	(Populas)
Olive	(Eleagnus)
Willow	(Salix)
Box Elder	(Acer Negundo)
Silver Maple	(Acer Sacharinum)
Pines	(Pinus)
Catalpa	(Catalpa)
Tree of Heaven	(Ailanthus Altissima)
Mulberry	(Morus)
Arbor Vitae	
Spruce	
Black Walnut	
Hickory	
European Beech	