

ORDINANCE #68607
Board Bill No. 336

An ordinance pertaining to the planting, maintenance, preservation and management of trees, shrubs and plants; containing legislative findings and declarations; repealing Ordinances 49772, 56447 and 64804; with definition of terms and administrative, regulatory and penalty provisions; with severability and emergency provisions.

WHEREAS, properly maintained and managed trees, shrubs and plants are natural resources that enhance the quality and aesthetics of the physical environment of the City of St. Louis (the "City") and are essential to the comfort, welfare and health of its citizens;

WHEREAS, Article I Section 1(25) of the City Charter in part empowers the City to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, uses of property and all things whatsoever detrimental to the health, comfort, safety, convenience or welfare of the inhabitants of the city and all nuisances and causes thereof;

WHEREAS, Article I Section 1(33) of the City Charter in part empowers the City to do all things whatsoever expedient for promoting or maintaining the comfort, peace, health, and welfare, of the City or its inhabitants:

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

Section One Purpose and Intent

The Board of Aldermen of the City of St. Louis finds and declares as follows:

1. The planning, development, maintenance and cultivation of a diverse, plentiful and healthy urban forest within the City of St. Louis (the "City") in perpetuity is desirable and in the interest of the health, welfare, comfort and general well being of the City's citizens, because of the positive environmental, social and economic benefits trees provide, such as oxygen production, dust filtration, storm water runoff reduction, pollution absorption, erosion control, phytoremediation, creation and enhancement of recreational spaces, energy cost reduction and the provision of shade.
2. The presence of mature and healthy trees is important in the stabilization and growth of neighborhoods, as attractive tree-lined streets contribute to increased property values and general neighborhood improvements.
3. The presence of trees within the City promotes tourism and commerce because of the positive effect trees have on the appearance and attractiveness of the physical environment of the City.
4. The proper management, care and protection of the City's urban forest requires policies and specifications for the planting, maintenance, preservation and management of trees, shrubs and plants on City property, and in some circumstances on private property, to preserve public safety and prevent or control infectious diseases and insect pests harmful to the tree, shrub and plant population in the City.
5. With proper management, planning and resources the benefits of a diverse, plentiful and healthy urban forest can be fully realized and maintained for the City in perpetuity.
6. The Board of Aldermen finds and declares that:
 - A. this ordinance is a "police power" regulation necessary to protect the public health, safety, welfare and peace;
 - B. the effective administration of this ordinance will entail the exercise from time to time of administrative discretion;
 - C. it is not possible to provide in legislation comprehensive rules for the appropriate exercise of administrative discretion in all circumstances relating to the proper regulation and management of trees, shrubs and plants;
 - D. accordingly, it is appropriate to vest discretion in the Commissioner, as hereinafter defined, and the Division, as hereinafter defined, in circumstances where matters affecting proper selection, location, condition, planting

and removal of trees, shrubs and plants are not expressly addressed by this ordinance, and it is the intent of the Board of Aldermen, to the fullest extent permitted by law, to vest such discretion in the Commissioner and the Division, to be exercised in furtherance of the underlying purpose of this ordinance.

Section Two Existing Ordinance Repeal

Ordinance 49772 and Ordinance 56447, presently codified as Ch. 22.48 of the Revised Code, and Ordinance 64804, are hereby repealed.

Section Three Rules of Construction, Definitions

- (a) In this ordinance:
 - (i) The singular number includes the plural number and the plural includes the singular.
 - (ii) Shall is mandatory and may is permissive.
 - (iii) The masculine gender includes feminine and neuter.

- (b) In this ordinance when the following words or phrases are used, they shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:
 - (i) *Caliper*: The diameter of a Tree measured at a point 6 inches above ground line if the resulting measurement is no more than 4 inches. If the resulting measurement is more than 4 inches then the measurement is made at a point 12 inches above the ground line.
 - (ii) *City Property*: All real property which is owned, leased or maintained by the City, any part of any right-of-way within the City, other than parks.
 - (iii) *City Tree*: Any Tree found or located on City Property.
 - (iv) *Commissioner*: The Commissioner of Forestry of the City of St. Louis or such Commissioner's designated employee.
 - (v) *Contractor*: A Person acting under a contract or written agreement with the City, the Department of Parks, Recreation and Forestry or the Forestry Division for the performance of an activity or function called for by this ordinance.
 - (vi) *Critical Root Zone*: All or part of a Tree's root system that must remain undisturbed to offer the Tree the best chance for survival. Critical rooting distance shall be determined by multiplying the Tree's diameter in inches at 4.5 feet above soil line by 2.5. For Trees growing in areas that are less than their critical rooting distance the Critical Root Zone is all of the growing area.
 - (vii) *Diameter Breast Height*: The diameter of a Tree measured at 4.5 feet above average grade.
 - (viii) *Director*: The Director of the City's Department of Parks, Recreation and Forestry.
 - (ix) *Division*: The Division of Forestry of the City's Department of Parks, Recreation and Forestry.
 - (x) *Hazard Tree*: A Tree possessing qualities in structure and/or growth that create an unacceptable level of risk to public safety.
 - (xi) *Plant*: Any form or type of vegetation that is not a Tree or Shrub.
 - (xii) *Right-of-Way*: Property located within and adjoining streets, roads and alleys within the City, which is owned, controlled or maintained by the City, including but not limited to areas commonly referred to as "tree lawn" between sidewalks and curbs.

- (xiii) *Shrub*: Any self-supporting multi-stemmed woody plant that attains at maturity a height of 12 feet or less.
- (xiv) *Tree*: Any self-supporting woody plant having a well defined stem, a more or less well defined crown and a mature height of greater than 12 feet and/or a trunk diameter measuring no less than 1.5 inches measured at diameter breast height, or a cluster of main stems having an aggregate diameter of not less than 2 inches in diameter measured at diameter breast height.
- (xv) *Weed*: Any unwanted Plant, Shrub or Tree, which because of its location and/or growth characteristics or habits is commonly considered an undesirable element in the landscape.
- (xvi) *Person*: An individual Person, corporation, association or entity of any kind.

Section Four Applicability/ Park Trees

A. All provisions of this ordinance shall apply to all City Property, except as otherwise provided in this ordinance.

B. Except as otherwise provided in this ordinance, Trees, Shrubs and Plants now or hereafter located on City parks or on other land maintained by the Parks Division of the Department of Parks, Recreation and Forestry shall be controlled and managed by the Parks Commissioner, who shall enforce all applicable provisions of this ordinance as they pertain to such Trees, Shrubs and Plants; provided, however, that the Director may grant the Commissioner of Forestry the authority to assume specific Tree, Shrub and Plant management and maintenance duties in City parks.

Section Five Commissioner of Forestry

- (a) The Division shall be in the charge of a Commissioner appointed by the Director. The Commissioner shall be responsible for planting, trimming and maintaining all City Trees along all public Right Of Way. The Commissioner shall also be responsible, as herein provided, for the planting, maintenance and management of all Trees, Shrubs and Plants located upon City Property, and for developing standard practices and procedures and planting, maintenance and management specifications for the Division to ensure the effective management of Trees, Shrubs and Plants within the City's jurisdiction.

Section Six Administrative Responsibilities

The Commissioner shall:

- (a) keep a record of all transactions of the Division, and whenever the Director may require, make a full detailed report concerning the same in addition to the annual report required by Section 10 of Article VIII of the City Charter.
- (b) be the custodian of records and papers of the Division and prepare and maintain all necessary literature, notifications, and records necessary for the administration of this ordinance.
- (c) prepare and implement a Master Street Tree Planting and Maintenance Plan, consistent with this ordinance, which shall include an inventory of existing City Trees, Tree planting standards, standards for the acceptance of nursery stock and Tree planting recommendations that promote species diversity and a sustainable and healthy urban forest, and procedures and standards required to effectively and safely facilitate all Tree maintenance activities of the Division. Such Plan shall be kept on file at the Division's office and in the City Register's office.
- (d) prepare and implement an Emergency Tree Management Plan, consistent with this ordinance, that shall include procedures and steps for maintaining and restoring the city's urban forest during and following an emergency such as a tornado, thunderstorm, windstorm, ice storm, flood or other act of God. Such Plan shall be kept on file at the Division's office and in the City Register's office.
- (e) develop and maintain a list of equipment and labor costs associated with services provided by the Division for the purposes of assessing penalties as provided for in Section Twenty Five of this ordinance.

Section Seven Employees

(a) The Commissioner is authorized to appoint and control the number of assistants and subordinate employees necessary to perform the duties of the Division, subject to the Civil Service provisions of the City Charter and applicable ordinances.

(b) The Commissioner may designate a deputy to act in the Commissioner's place in the event of the Commissioner's temporary absence from the City.

Section Eight Authority

The Commissioner shall have the power and authority to:

(a) prepare and implement procedures, standards and specifications pertaining to the planting, pruning, removal, disease and insect treatment, protection and other necessary maintenance and management activities of all Trees, Shrubs or Plants planted on City Property.

(b) recommend to the Director possible future ordinance provisions pertaining to Trees, Shrubs and Plants located on private property which would, if enacted, tend to prevent the spread of infectious disease and insect pests harmful to the general health and well being of the entire Tree, Shrub and Plant population within the City and to control and/or abate nuisance and Hazard Trees.

(c) enter upon private property at reasonable hours for the purposes of inspecting Trees thereon, if there is reasonable cause to believe by virtue of its appearance, or otherwise, that a Tree has structural or growth conditions that make it a hazard, or is or may be infected with a infectious disease or vectors that may transmit an infectious disease or an insect pest harmful to the general well being of the entire Tree population in the City. The Commissioner shall have the power and authority to mark or otherwise identify any such Tree and remove any samples or portions thereof for purposes of further diagnosis of any suspected disease or insect problems.

(d) cause Trees on private property to be free of hazards, diseases and insect pests.

(e) cause Trees on private property to be maintained so as to prevent the obstruction of: vehicular or pedestrian traffic, street corners and intersections, alleys, traffic control signs and devices and the safe passage of light as described in Section 15 of this ordinance.

Section Nine Tree Placement and Planting

(a) The Commissioner shall determine, by regulations issued pursuant to section Twenty Seven of this ordinance, and maintain standards for the appropriate Tree species, sizes, spacing and placement on City Property, including a list of undesirable and desirable street Trees, and standards for the minimum size for Tree boxes/wells, and the appropriate spacing distances for existing Trees located on City Property.

(b) The Commissioner shall determine and maintain standards for the acceptance of nursery stock for Trees to be planted or placed upon any Right of Way.

(c) The Commissioner shall inspect and approve all street Trees prior to their planting on any Right of Way.

(d) The Commissioner shall review and approve all plans for the planting of Trees on City or private property by any City department or agency, and for the planting of trees on private property as part of any development project of any kind approved by any City department or agency, including agencies operated by St. Louis Development Corporation.

(e) Any Trees hereafter set out, planted or raised on City Property, which are not consistent with the standards provided for in this section, are hereby declared a public nuisance and subject to treatment and abatement as such.

Section Ten Tree Planting

(a) When in the judgment of the Commissioner it is necessary or desirable that Trees be planted on City Property the Commissioner shall develop and implement such plans as necessary to cause said Trees to be planted. The Commissioner is further authorized to develop programs, policies and procedures to foster and encourage the planting of Trees by city residents, other public agencies and businesses.

(b) The Commissioner shall provide on an annual basis to each alderman an accounting of street Trees removed and planted so as to indicate their net gain or loss within their ward.

(c) The Commissioner shall provide on an annual basis to the Director an accounting of street Trees removed and planted indicating the net gain or loss of City Trees within each ward of the city and the net gain or loss of City Trees within the City as a whole.

(d) Whenever the Division shall remove any City Tree , the Division shall plant a new City Tree not less than 2.5 inches in caliper size to replace the removed City Tree. When site conditions permit, the replacement City Tree shall be planted within 500 feet of the site of the removed Tree. If a suitable planting location cannot be found within 500 feet of the removal location, the replacement City Tree shall be planted at another location determined by the Commissioner within the ward where the removal occurred. The cost of such replacement City Trees shall be charged by the Commissioner to the tree planting or similar account of the alderman of the ward where the removal occurred, unless otherwise provided by this ordinance.

Section Eleven *Permit Required to Plant*

(a) No Person shall plant, transplant, relocate or replace any Tree on City Property without first obtaining a permit (“Permit to Plant”) from the Commissioner. This section shall not apply to planting or reforestation activities of the Division or Contractors.

(b) The Commissioner shall develop policies and procedures for the Division to cause the efficient and equitable issuance of Tree planting permits under the provisions of this section.

(c) Work done under any Permit to Plant permit must be done in compliance with any other applicable sections of this ordinance.

(d) Any Permit to Plant shall specify the species and size of each Tree to be planted.

(e) Permits to Plant Trees larger than 4 inches in caliper size shall expressly provide, as a condition of the issuance of the permit to plant, that the permittee will pay replacement and associated replacement costs for a period of 5 years after planting.

(f) Any and all Trees hereafter set out, planted or raised upon City Property in violation of this Section are hereby declared a public nuisance and subject to treatment and abatement as such.

Section Twelve *Permit to Maintain Required*

(a) No Person shall directly or indirectly perform maintenance, including but not limited to pruning, spraying or removal, on any City Tree without first obtaining a permit (“Permit to Maintain”) from the Commissioner. This section shall not apply to Tree maintenance activities performed by the Division or by Contractors, or by or on behalf of any City department or agency.

(b) The Commissioner shall develop policies and procedures for the Division to cause the efficient and equitable issuance of Permits to Maintain under this section.

(c) A Permit to Maintain shall only be valid for a period of time specified by the Division..

(d) The Commissioner may issue Permits to Maintain without formal application in order to avoid danger or hazard to Persons or property in emergency situations requiring immediate maintenance of a City Tree; provided, that a formal application shall be filed within seventy-two hours of starting such emergency action. If in such an emergency the Commissioner or a representative of the Division cannot be reached, it shall be lawful to perform the necessary emergency maintenance required; provided, the Person performing such emergency maintenance shall report such action to the Commissioner within seventy-two hours of starting such maintenance.

(e) Any application for a Permit to Maintain shall identify the Person performing the work, and only that Person may perform the work authorized by the permit. If after a Permit to Maintain is issued the identity of such Person changes, the permit holder shall contact the Division for approval to amend the permit within forty-eight hours prior to the start of the work, or immediately if the change occurs after work has begun.

(g) The Commissioner may issue a general Permit to Maintain Trees to public and private utility companies for a period not to exceed two years; provided the company's pruning or maintenance specifications comply with all other provisions of this ordinance and other applicable rules and regulations; and provided that the removal of any City Tree shall be specifically approved in advance in writing by the Commissioner. Pruning of branches of City Trees under such a permit shall be done in accordance with the most recent edition of American National Standard Institute for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance Standard Practices (Pruning) (ANSI A300 Part 1).

Section Thirteen *Permit Conditions, Denial and Revocation*

The Commissioner shall :

(a) establish , by regulation pursuant to section Twenty Seven of this ordinance, reasonable conditions on which Permits to Plant or Maintain are to be issued, performed and completed.

(b) deny the issuance of any permit under any section of this ordinance if, in his judgment, issuing said permit is not in the best interest of the City in the maintenance, preservation, sustainability and/or health of its urban forest. The Commissioner's decision to deny an issuance of a permit may be appealed in writing within 10 days of such denial to the Director, whose decision shall be final.

(b) The Commissioner may suspend or revoke any permit should the permittee at any time fail to comply with the conditions of the permit. Upon suspension all work must cease until the conditions of the permit are met.

(c) A permittee who fails to comply with the conditions of a permit shall be deemed in violation of this section and subject to the penalties prescribed in Section Twenty Five A, and to any repair and replacement costs defined in Section Twenty Five B of this ordinance required to repair, replace or restore any element or feature of landscape, hardscape or infrastructure.

(f) Any Person performing work under a permit shall have in their possession and produce upon request by the Commissioner all licenses to operate within the city required by law or other applicable ordinances.

(g) Any permittee assumes all liability and risk relating to or arising out of any work performed or undertaken under a permit, and all permits shall expressly so provide, and shall further provide that the permittee agrees to indemnify the City for claim, liability or damage which the City may incur as a result of the issuance of the permit or any action or omission under the permit.

(h) Any Person found by the Commissioner to have knowingly falsified or concealed information on a permit application shall have their permit application denied, or, if a permit has been issued it shall be revoked. Any such falsification or concealment is a violation of this ordinance.

Section Fourteen *Permit Fees*

(a) There shall be no fee for a Permit to Plant, or for a Permit to Maintain which does not involve removal of a City Tree.

(b) The Commissioner shall assess, for the privilege of removing a City Tree, a reforestation fee for each City Tree approved for removal on a Permit to Maintain application, as provided in this Section. The Commissioner may waive such fee for good cause.

(c) The reforestation fee for removal of Trees shall be determined as follows:

i) for Trees less than 8 inches in size at diameter breast height, the fee shall be the retail cost to the Forestry Division to purchase a Tree of 2.5 to 3 inches in caliper size of similar canopy type of the tree removed.

ii) for Trees that exceed 8 inches in size at diameter breast height, the fee shall be the retail cost to the Forestry Division to purchase a Tree of 2.5 to 3 inches in caliper size of similar canopy type of the tree removed plus the cost to purchase an additional tree 2.5 to 3 inches in caliper size for every additional 6 inches of size at diameter breast height. For example, the reforestation fee for removal of a tree 20 inches in diameter breast height would be the cost of 3 trees as provided in this sub-paragraph.

iii) Multi-stemmed trees shall have the aggregate diameter of each of their trunks used in determining their size.

(d) The Commissioner shall maintain a current schedule of such retail costs and current values in the Division office and available to the public.

(e) Permit to maintain applications that will involve the removal of Trees shall be accompanied by the applicable reforestation fee, in full. The reforestation fee must be paid in full to the Commissioner before a Permit to Maintain will be issued pursuant to Section Twelve of this ordinance. The Commissioner shall have the authority to waive the reforestation fees in his discretion, for example for the removal of Trees in poor condition or of species that are considered undesirable or poorly located.

Section Fifteen *Tree Clearance Requirements*

(a) The Commissioner shall determine and maintain standards for appropriate height and spatial clearances for all City Trees so as to allow the safe use or occupancy of the space around said Tree. Such standards shall include, but not be limited to, height and spatial clearances for streets, sidewalks, alleys, building and other structures, traffic control signs and devices, street and alley lights, public utility wires and intersections and intersection approaches.

(b) The Commissioner shall determine and maintain standards for the growth and maintenance of Trees, Shrubs and Plants located on any lot or parcel or land within the City so as to prevent the obstruction of vehicular or pedestrian traffic, street corners, intersections and intersection approaches, traffic control signs and devices and the safe passage of light.

(c) The Commissioner shall perform maintenance of Trees, Shrubs and Plants on City Property for clearance in a manner consistent with the most widely accepted arboricultural practices.

(d) In the event a standard provided under this Section is changed, for purposes of contracts, the applicable standard in effect at the time a contract was made shall be used during the term of the contract.

Section Sixteen *Tree Preservation and Replacement*

(a) It is the policy of the City:

(i) to suffer no net loss in the population and canopy of the urban forest under its jurisdiction, as such losses would be detrimental to the health, welfare, comfort and general well being of City residents by reducing the benefits provided by the city's urban forest;

(ii) to preserve City Trees whenever possible during development and land improvement by using the most appropriate and feasible arboriculturally sound methods to preserve City Trees from injury and damage; and, where City Trees cannot be preserved during development or land improvement, to plant appropriate replacement City Trees as prescribed by this ordinance; and

(iii) to increase and expand the population and canopy of the urban forest under its jurisdiction by planting new City Trees whenever possible to increase the total benefit provided by the City's urban forest.

(b) Any Person issued a building permit shall be responsible for complying with this section; provided, that fees required for a Permit to Maintain for the removal of any City Tree shall be the responsibility of the Person making application for said permit. In the event a building permit is not issued for work which may affect City Trees then the property owner shall be responsible for complying with all provisions of this section.

(c) Any Person employed, contracted or otherwise working on behalf of the City shall be subject to all applicable provisions of this section.

(d) A Permit to Maintain for removal of a City Tree as a result of the demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land in the City must be issued pursuant to Section Twelve of this ordinance before such Tree can be removed by any Person, including persons employed, contracting with or otherwise working on behalf of the City and all conditions and fees as prescribed in Sections Thirteen and Fourteen of this ordinance shall apply. Any Person who removes or causes to have removed a City Tree without the prescribed Permit to Maintain shall be deemed in

violation of this section and subject to a Five Hundred Dollar fine for acting without a required permit, and to an additional fine for destruction of City property equal to the applicable reforestation fee under Section Fourteen (a), (b) or (c) and any replacement and repair costs as determined by Section Twenty Five of this ordinance, up to a maximum of Five Hundred Dollar for each Tree regardless of their actual health and desirability at the time of their removal.

(e) All reasonable steps shall be taken to prevent destruction of or damage to City Trees (other than City Trees approved for removal), during the improvement, demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land in the City. Such steps include, but are not limited to the following Tree preservation activities:

(i) The placing of protective fencing at the boundary or limits of the established Critical Root Zone of each City Tree that has been determined by the Commissioner to have the potential of being injured during construction or, in the absence of such determination by Commissioner, within the area of construction. Such protective fencing shall be installed before construction of any type is to begin, with a minimum height of at least 4 feet and installed in such a manner that it maintains its rigidity and effectiveness as a barrier.

(ii) Construction equipment, trailers, traffic and storage must remain outside of the Critical Root Zone of any City Tree.

(iii) No materials, equipment, spoil, or waste or washout water may be deposited, stored or parked within the Critical Root Zone of any City Tree.

(iv) Erosion control devices such as silt fencing, debris basins and water diversion structures shall be installed in such a manner to prevent siltation and/or erosion within Critical Root Zone of any City Tree.

(v) Spoil from trenches, basements, or other excavations shall not be placed within the Critical Root Zone of any City Tree, either temporarily or permanently.

(vi) No burn piles or debris pits shall be placed within the Critical Root Zone of any City Tree.

(vii) No ashes, garbage or debris may be dumped or buried within the Critical Root Zone of any Tree.

(viii) Any herbicides placed under paving materials must be safe for use around Trees and labeled for that use and not be readily transported by water.

(ix) Any brush clearing required within the Critical Root Zone of any City Tree shall be accomplished using hand-operated equipment and approved by the Commissioner. (x) City Trees shall be root pruned before grading, pad preparation or excavation for foundations or walls or utility trenching occurs. Root pruning requires a Permit to Maintain applied for and issued in accordance with Section Twelve and any other applicable section of this ordinance. Roots shall be root pruned to 1 foot outside of their Critical Root Zone and cut cleanly using either manual or mechanical methods such as chainsaws, vibrating knife, rock saw, narrow trencher or other root pruning equipment approved by the Commissioner. The use of any type of equipment that otherwise tears, rips or pulls roots is not permissible.

(xi) All underground utilities and drain or irrigation lines shall be routed around the Critical Root Zone of City Trees. If underground utilities must pass through a Critical Root Zone, they shall be tunneled or bored under the Tree for the duration of the Critical Root Zone, unless deemed unreasonable do so by the Commissioner.

(xii) City Trees shall not be pruned or otherwise maintained in any manner without a Permit to Maintain first being applied for and issued pursuant to this ordinance.

(f) The Commissioner by regulation issued pursuant to Section Twenty Seven of this ordinance may provide other practices and specifications necessary to effectively preserve City Trees at construction sites.

(g) Prior to the start of construction any Person may request the Commissioner to waive of any provisions of subsection (e) of this section which they feel are unreasonable or impose undue financial hardship in the completion of construction. No waiver request made after the start of construction may be granted. The Commissioner's decision on any such waiver request shall

be final.

(h) The Commissioner is authorized to issue an emergency stop work order for up to seventy-two hours if in the Commissioner's opinion the precautions required by subsection (e) of this section were not undertaken before construction commenced or are not maintained at any time during construction. The Commissioner may rescind such order within twenty-four hours if the violations for which the order was issued is remedied. If the violations are not corrected within twenty-four hours after issuance of the stop work order and the project is supervised by the Board of Public Service, the Commissioner may request the Board of Public Service to issue a permanent stop work order. Penalties, if any, levied by the Board of Public Service shall be in addition to all fines and penalties imposed and prescribed by this ordinance. The Board of Public Service may issue a stop work order at any time of its own volition to any Person that fails to comply with any requirement of subsection (e) of this Section, until such provisions are met, or may issue a permanent stop work order.

(i) Failure to obtain any permit required by this Section, or to take any precaution as prescribed in this Section, before construction commences or at any time during construction, is a violation of this ordinance and punishable by a fine of Two Hundred Fifty Dollars for each precaution not undertaken or maintained, in addition to any other applicable fine under this ordinance.

(j) Failure to stop work upon issuance of an emergency stop order by the Commissioner or a stop work order by the Board of Public Service is a violation of this ordinance and punishable by a fine of Five Hundred Dollars, in addition to any other fines or penalties prescribed by this ordinance. Each full hour that work continues after the issuance of a stop work order is a separate violation.

(k) Any Person who damages any City Tree, Shrub or Plant during construction, demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land is in violation of this ordinance and subject to a fine of Two Hundred Fifty Dollars for each City Tree, Shrub or Plant damaged, in addition to any other penalties or fines applicable under this ordinance.

(l) Any City department that plans to excavate, cut or otherwise remove or damage roots within the Critical Root Zone of any City Tree shall, where possible report the scheduled occurrence of such activities forty-eight hours in advance to the Commissioner, who shall review such activities and if available offer less damaging alternatives. In the event advance notification cannot be provided, then the Commissioner shall be notified within forty-eight hours of the occurrence of the root damage or removal so an assessment can be performed to determine the health, stability and safety of the affected Tree.

Section Seventeen *Sewer Damage*

(a) No City Tree shall be removed or otherwise be treated because of sewer related damage allegedly caused by such Tree until the Commissioner has reviewed the matter and approved the appropriateness of such removal or treatment.

(b) No City Tree shall be considered for removal by the Commissioner until the alleged sewer related damage is substantiated by the submission of paid bills or receipts by the property owner requesting the removal. Any such bills or receipts must be determined by the Commissioner to be directly attributable to root related damage. Any Person who knowingly falsifies or submits fraudulent bills or receipts is in violation of this ordinance.

(c) The Commissioner may waive the requirements of subsection (b) of this Section of this ordinance if the Tree has been listed as undesirable for street Tree use under this ordinance or is determined by the Commissioner to be in an unsafe and/or unhealthy condition.

(d) Each City Tree removed for sewer related damage shall be replaced with three Trees with a caliper size of no less than 2.5 inches per Tree. The species of such replacement Trees shall be determined by the Commissioner. The Commissioner, where site conditions permit, shall plant a replacement Tree at the site where the Tree was removed and two additional Trees at locations of his choosing within the ward where the Tree removal occurred. If the site of the Tree removal is not suitable for a replacement Tree then a replacement Tree shall be planted at a location within the ward where the removal occurred, as determined by the Commissioner. The cost of said replacement Trees shall be charged by the Commissioner to the Tree planting account or similar account of the alderman of the ward where the removal occurred.

(e) The Commissioner shall not proceed with the removal of any Tree for sewer related damage until sufficient funds are available for replacement Trees pursuant to Subsection (d), unless the safety or stability of the Tree is in question, or the need for removal is urgent in the judgment of the Commissioner.

Section Eighteen Sidewalk Damage

(a) It shall be the duty of property owners to notify the City when any City Tree located street adjacent to their property is believed to be causing damage to any public sidewalk or other pedestrian thoroughfare. It shall further be the duty of the property owner, in a timely manner to keep the surface portion of such sidewalk or pedestrian thoroughfare free of seed, leaf, twig and any other debris created and otherwise dropped by the natural growth of the Tree so as to allow the reasonable and safe passage of pedestrian traffic.

(b) Where damage to a sidewalk or curb occurs due to the close proximity or growth of City Tree roots, the Division shall make every reasonable effort to correct the problem without damaging or injuring the Tree.

(c) In cases where Tree removal is necessary, the Commissioner shall not proceed with removing the Tree until he receives confirmation from the Street Division that it has scheduled the repairs, unless the safety or stability of the Tree, Shrub or Plant is in question, or the need for removal is urgent in the judgment of the Commissioner.

(d) Each Tree removed on City Property for sidewalk related damage shall be replaced with three (3) Trees with a caliper size of no less than 2.5 inches per Tree. The species of such replacement Trees shall be at the determination of the Commissioner. The locations of such replacement Trees shall be determined in like manner as are the locations of replacement trees under Section Seventeen (d). The cost of said replacement Trees shall be charged by the Commissioner to the Tree Planting account or similar account of the alderman of the ward where the removal occurred.

(e) The Commissioner shall not proceed with the removal of any Tree for sidewalk related damage until sufficient funds are available for replacement Trees pursuant to subsection (d) of this Section, unless the safety or stability of the Tree is in question, or the need for removal is urgent in the judgment of the Commissioner.

Section Nineteen Mutilation or Theft of Trees, Shrubs or Plants on City Property

(a) No Person shall break, mutilate, injure, poison, destroy, remove or otherwise alter or disrupt any Tree, Shrub or Plant or any other related vegetative improvement on City Property.

(b) The practice of Tree topping, defined as the practice of cutting back branches of Trees to stubs or lateral branches that are not large enough to assume a terminal role, is prohibited on all City Trees. The Commissioner's determination on whether a Tree has been topped or not shall be final.

(c) Except as provided in this section, no Person shall fasten or attach any wire, rope, sign, handbill or other thing to any Tree, Shrub or Plant growing on City Property, nor to any guard or protection of such Tree, Shrub or Plant.

(d) No Person shall without written permission of the Commissioner attach any wire, insulator or support device of any nature used for telecommunications or electric transmission or distribution to any Tree, Shrub or Plant growing on City Property.

(e) No Person shall without written permission of the Commissioner attach, hang or suspend lights or lighting devices of any kind to any Tree, Shrub or Plant growing on City Property.

(f) Lights or lighting devices of any kind which the Commissioner permits to be attached, hung or suspended from any Tree, Shrub or Plant must be installed so as to be least damaging to the Tree, Shrub or Plant as prescribed by the Commissioner and cannot remain in the Tree, Shrub or Plant for longer than one hundred twenty days. The Person permitted to install the lights or lighting devices shall be responsible for removing them in a manner least damaging to the Tree, Shrub or Plant within the prescribed period of time or be deemed in violation of this section.

(g) All lights or lighting devices that are in violation of this section are hereby declared public nuisances and subject to treatment and abatement as such by the Commissioner.

(h) Any Person having any wire charged with electricity shall securely fasten the same so that such wire shall not come in contact with any Tree, Shrub or Plant growing on City Property.

(i) No Person shall permit any toxic or injurious chemical or substance to seep, drain or be emptied on or within the Critical Root Zone of any City Tree.

(j) Without written permission from the Commissioner, no person shall place or maintain upon the ground any stone, cement or other impervious material or substance in such a manner as may obstruct the free access of air and water within a City Tree's Critical Root Zone. Any stone, cement or other impervious material placed or maintained in violation of this subsection is hereby declared a public nuisance and subject to treatment and abatement as such by the Commissioner.

(k) Without written permission from the Commissioner, it shall be unlawful for any Person to install grates or any other covering over the tree box or well of any City Tree. Such grates and other coverings shall be considered an extension of the pedestrian walk which they adjoin and are the responsibility of the adjacent property owner to maintain in a condition that is safe for passing pedestrian traffic.

(l) No person shall maintain a grate or other covering over the tree box or well of any City Tree in a condition that is injurious to such Tree or to the safety of passing pedestrian traffic. Any grate or other covering found in violation of this section is hereby declared a public nuisance and is subject to treatment and abatement as such as by the Commissioner.

(m) Any Person who violates subsection (b) of this section shall be subject to a fine of Five Hundred Dollars per affected Tree. Any Person found in violation of any other provision of this section shall be subject to the a fine of up to \$500, including and any necessary repair and replacement costs defined in Section 25 of this ordinance required to replace or restore the condition of the affected Tree, Plant, Shrub or landscape.

Section Twenty Treelawn and Parkway Planting Requirements and Criteria

(a) The appearance and maintenance by adjacent owners of those portions of street rights of way in the City, commonly referred to as the tree lawn, have a substantial impact on the appearance of city neighborhoods and streets and a significant relationship to property values. Deterioration of street landscapes occurs when inappropriate Plants and landscape items are installed that are incompatible with the landscape of a given area, neighborhood or business district or are not, or cannot be, maintained to acceptable standards of appearance. This results in a reduction of property values, poor appearance and the impairment of the public health, safety and welfare. Therefore, the City declares it has a governmental interest in regulating the types of vegetation and landscape items installed in its street right of way and may establish criteria for the maintenance of said items. Provided, this Section shall not apply to the Division or to Contractors.

(b) Shrubs, Plants and other landscape features or items now or hereafter growing or set out, placed, planted or raised in the right of way of any street or alley and on all City Property by any Person other than the City, that are in violation of the provisions of this section are hereby declared public nuisances and subject to treatment and abatement as such. The Commissioner is hereby authorized to remove, trim or otherwise treat any Shrub, Plant or landscape feature or item found in violation of this section without warning or notification.

(c) The City, its officers and employees shall have no liability for landscape features, Shrubs, Plants or other items placed or otherwise installed in or on any City Property by any Person not acting under the authority of a permit or on behalf of the City to install said items. The Person installing said items assumes all responsibility and liability for their maintenance and upkeep unless otherwise provided by ordinance, contract or other agreement.

(d) Fire hydrants shall have a clear area established around them which shall consist of a circle 4 feet in radius measured from the center point at the top of the hydrant and 6 feet in height as measured upwards from the highest point of ground immediately adjacent to the hydrant. Vegetation of any type that is intended to be grown or otherwise maintained at a height that exceeds twelve inches shall not be planted or otherwise maintained in such clear area. In addition, a clear unobstructed field of vision of not less than thirty degrees from each side of a perpendicular line drawn from the top of the fire hydrant to the nearest curb or street line must also exist. Vegetation adjacent to the clear area prescribed in this sub-section shall be maintained in such a way that it does not overgrow or otherwise overhang into such clear area.

(e) Water meter pits, vaults and service shutoffs shall have a clear area established around them which shall consist of a circle two feet in diameter measured from the center of the pit, vault or valve and extending six feet in height as measured upwards from the highest point of ground immediately adjacent to the pit, vault or valve. Vegetation of any type that is intended to be grown or otherwise maintained at a height that exceeds twelve inches shall not be planted or otherwise maintained in such clear area. Vegetation adjacent to such clear area shall be maintained in such a way that it does not overgrow or otherwise overhang into such clear area.

(f) The placement of any Shrubs, Plants or landscape features or items with a maintainable mature height of more

than twelve inches is prohibited within fifteen feet from any street corner.

(g) Street light poles, public utility poles, traffic signals and street signs of any type shall be kept free of all climbing or creeping vegetation.

(h) Climbing or creeping vegetation growing on any City Tree is subject to removal if deemed by the Commissioner to be detrimental to the Tree's continued growth or health.

(i) Any Tree, Shrub or Plant that is known to possess features or growth characteristics that make all or parts of them poisonous, allergenic or invasive in nature shall be subject to immediate destruction and removal by the Commissioner and shall be prohibited from use on any City Property. Such vegetation shall include but is not limited to *Cirsium arvense* (Canada thistle), *Convolvulus arvensis* (Field bindweed), *Sorghum halepense* (Johnsongrass), *Pueraria lobata* (kudzu), *Rosa multiflora* (Multiflora rose), *Lythrum salicaria* (purple loosestrife), *Dipsacus fullonum* (Common teasel), *Dipsacus laciniatus* (Cutleaf teasel), *Carduus nutans* (Musk thistle), *Onopordum acanthium* (Scotch thistle), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's honeysuckle), *Lonicera maackii* (Amur honeysuckle), *Alliaria petiolata* (Garlic mustard), *Toxicodendron Radicans* (Poison ivy), *Toxicodendron diversilobum* (Poison oak), *Xanthium sp.* (Cocklebur), *Datura stramonium* (Jimsonweed) and any Tree, Shrub or Plant that is determined by the Commissioner to be alleopathic to adjacent City Trees, Shrubs or Plants, diseased or infested, an alternative host for a Tree, Shrub or Plant disease or habitat for a Tree, Shrub or Plant disease vector.

(j) Any Person who installs any Tree, Shrub or Plant in violation of subsections (d) through (i) of this Section shall be subject to a fine of One Hundred Dollars for each Tree or Shrub planted in addition to removal, replacement or remediation costs as provided for in Section Twenty-Five of this ordinance.

(k) The installation, construction or erection of raised planters or landscape walls around the trunks of Trees after their installation is detrimental to the long term health of Trees and is hereby prohibited around any City Tree unless approved by the Commissioner. The use of ornamental or landscape edging is prohibited around City Trees unless it is located far enough way so as not to cut into the root flare of the Tree or restrict or impede its growth, does not extend more than four inches above the soil line at its highest point, and does not entail soil excavation greater than a trench or hole six inches wide and three inches deep as measured from the soil line.

(l) Any person wishing to install, place, or construct any non-vegetative landscape feature or item, including but not limited to raised planters, retaining walls, decorative or ornamental rocks, fencing or any kind of landscape rock within any street or alley right of way in the City shall first obtain a Landscape Permit from the Commissioner authorizing such items.

(m) Any Person wishing to install and plant a "Landscape Bed", hereby defined as a grouping of Plants of similar or dissimilar type in an area of landscape that is more or less continuous in nature and greater than nine square feet in size in any street or alley right of way in the City, shall first obtain a Landscape Permit authorizing such bed from the Commissioner.

(n) The issuance of Landscape Permits under this Section shall be in accordance with any applicable provisions of Section Thirteen of this ordinance.

(o) Any Person that fails to obtain a Landscape Permit as required by subsection (m) of this Section commits a violation of this ordinance punishable by a fine of One Hundred Dollars plus any removal, replacement or remediation costs as provided for in Section Twenty-Five of this ordinance.

(p) The disturbance of the Critical Root Zone of any City Tree, with the exception of Trees already planned or otherwise authorized for removal by the Commissioner, by any tillage method, hand or mechanical, for the purpose of installing landscape Plants, features or items is prohibited, unless expressly approved and monitored by the Commissioner.

Section Twenty-One Private Tree Hazards

Any Tree in the City determined by the Commissioner to be:

- (i) dead, defective, diseased, infested or decayed and to threaten real property or users thereof; or
- (ii) alleopathic to adjacent City Trees or an alternative host for a Tree disease or a habitat or breeding habitat for a Tree disease vector; or

(iii) not grown or otherwise maintained by the property owner to meet all applicable Tree clearance standards provided for by Section Fifteen of this ordinance is hereby declared a public nuisance and subject to treatment and abatement as such by the Commissioner. The Commissioner shall be authorized to order the treatment and abatement of any such Tree. After thirty days of said order being issued the Commissioner may enter upon any lot or parcel of land within the City for the purpose of treating or abating such nuisance and may bill the owner pursuant to Subsection (t) of this Section.

(b) The Commissioner shall serve treatment and abatement orders, as authorized in this section, to property owners found in violation of this section by personal service, or by U. S. mail to the person to whom was sent the tax bill for general taxes for the preceding year, or to the current owner of record. Such notice shall identify the street address of the property, the problem conditions, and what is required of the property owner to be in compliance with this Section and/or Section Fifteen.

(c) Any notice served on a property owner by the Commissioner under the provisions of this section may be appealed to the Board of Public Service whose decision in the matter shall be final. Any appeal from an order of the Commissioner under this section must be filed within ten days of receipt of such order on such forms as may be determined by the Commissioner and approved by the Board of Public Service.

(d) The Commissioner shall bill the owner of any lot or parcel of land on which the City or a City contractor abates or treats any Tree under the provisions of this section for the cost of such abatement and/or treatment. Any such bill issued by the Commissioner pursuant to this section of ordinance that is unpaid ninety (90) days after it is first mailed may be sent to a collection agency for collection and shall bear interest at the rate allowed by law for judgment in civil actions.

(e) All monies collected as provided in subsection (d) of this section shall be transmitted daily to the Treasurer of the City of St. Louis in the form and manner prescribed by the Comptroller.

(f) When the condition of a Tree is such that the Commissioner believes it is in imminent danger of falling or is creating an immediate hazard to the safety of the general public which is too great a risk to leave uncorrected while standard procedures for giving notice are followed, the Commissioner may, in his discretion enter onto any lot or parcel of land in the City and abate or otherwise remediate the condition without following said procedures.

(i) Any owner of a lot or parcel of land upon who fails to comply with an order issued from the Commissioner pursuant to this section within thirty days of receipt of such order violates this section and shall be punishable by a fine of Two Hundred Fifty Dollars.

Section Twenty-Two *Private Tree Disclaimer*

Nothing in this ordinance shall be deemed or construed to relieve the owner of any private property from the duty to keep and maintain any Tree located on their property in a condition such as to prevent it from becoming a hazard to adjacent private and public property; and to prevent it from becoming a hazard or an impediment to travel or vision upon any street, alley, sidewalk or other public place in the City, or to impose any liability upon the City, its officers or employees in connection with any Tree located on private property.

Section Twenty-Three *Enforcement*

(a) The Commissioner shall be responsible for the administration and implementation of this ordinance. He may serve notice to any Person in violation thereof and may report violations to the police department and City Counselor for appropriate proceedings, which are each hereby directed to take all appropriate actions to assist in the enforcement of this ordinance.

(b) In instances where a Person is found to be maintaining or removing or destroying a City Tree in the absence of an appropriate permit for such action in their possession, the police department shall require such Person to cease such operations until the necessary permit and/or certification is obtained pursuant to this ordinance.

Section Twenty-Four *Interference*

It shall be a violation of this ordinance for any Person:

(a) to impede, hinder, delay or interfere with the Commissioner or the Division or any person acting under the

Commissioner's authority in the administration or enforcement of any provision of this ordinance.

(b) to impede, hinder, delay or interfere with the Commissioner or his subordinates while engaged in the planting, pruning, spraying, cultivating, maintaining or removal of any Tree, Shrub or Plant located on City Property.

(c) to impede, hinder, delay or interfere the Commissioner or his subordinates from entering onto private property for the purposes of carrying out their lawful duties under this ordinance.

(d) to impede, hinder, delay or interfere with a Contractor in the fulfillment of his contractual obligations for the planting, pruning, spraying, cultivating, maintaining or removal of any Tree, Shrub or Plant located on City Property.

(e) to impede, hinder, delay or interfere with a Contractor in the fulfillment of his contractual obligations from entering onto private property for the purposes of carrying out his lawful duties.

Section Twenty-Five *Penalty/ Replacement and Repair Costs*

(a) Except as otherwise provided by this ordinance, any Person who violates any provision of this ordinance shall be punishable by a fine of not less than One Hundred Dollars and not exceeding Five Hundred Dollars or by imprisonment up to thirty (30) days, or both such fine and imprisonment for each separate offense. All such violations that are of a continuing nature shall constitute a separate offense for each day the violation continues. If, as a result of the violation, the injury, mutilation or death of a Tree, Shrub or Plant located on City Property occurs, the cost of the repair and/or replacement as provided in subsection (b) of this section shall be included in the calculation of the fine, up to the maximum of Five Hundred Dollars.

(b) Where this ordinance provides that the replacement and repair costs for Trees, Shrubs or Plants shall be assessed as a fine or penalty, said costs shall be calculated by the Commissioner as follows:

(i) Replacement and repair costs for Trees less than 10 inches in size at diameter breast height or with an aggregate diameter of less than 15 inches at diameter breast height shall be the retail price of a similar or same sized and species Tree plus the equipment and labor costs required by the Division or any Contractor or Person acting on behalf of the Division to remove and replace said Tree.

(ii) Replacement and repair costs for Trees that exceed 10 inches in size at diameter breast high or with an aggregate diameter of larger than 15 inches shall be their value, as determined using the most recent edition of the Guide for Plant Appraisal as prepared by the Council of Landscape Appraisers, plus the equipment and labor costs required by the Division or any Contractor or Person acting on behalf of the Division to remove and replace said Tree.

(iii) Costs to repair or remediate Tree, Shrub or Plant damage and/or the repair, replacement or restoration of any element or feature of landscape, hardscape or infrastructure shall be determined based upon the equipment, labor and material costs for the Division and/or other City Departments or public agencies required to perform said services or the equipment, labor and material costs of any Contractor performing such services.

(iv) Shrubs and Plants shall have their value determined by the retail price of a Shrub or Plant of a similar size and species, plus the equipment and labor costs required to remove and replace said Shrub or Plant by the Division or by a Contractor.

(a) (v) In lieu of prosecution for a violation of this ordinance, the Commissioner is authorized to bill any Person who causes expense to the City as calculated under this Section, and to refer such bill which is unpaid ninety days after it is first mailed to a collection agent for collection, subject to applicable law.

Section Twenty-Six *Injunctive Relief*

(a) Whenever there exists reasonable cause to believe that any Person is violating any provision of this ordinance or any term, condition or provision of an approved permit, the City may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute an action for a mandatory or prohibitory injunction and/or an order of abatement as the City deems appropriate in the circumstances. Injunctive relief under this section shall not relieve any Person from any otherwise applicable fine or penalty.

Section Twenty-Seven *Regulations*

(a) The Commissioner is authorized to issue regulations as provided by this section. Any such regulations shall be consistent with this ordinance and other applicable law, and shall be subject to approval prior to issuance by the Director, the Board of Public Service and the City Counselor's office. Any such regulations shall be kept on file at the Division's office and in the City Register's office.

- (b) Such regulations may address the following matter or subjects:
- i) whether, consistent with sound biological science, any particular type of vegetation shall be classified as a Plant, Shrub, Tree or Weed for purposes of this ordinance;
 - ii) conditions for permits issued pursuant to Sections Eleven and Twelve of this ordinance;
 - iii) standards for appropriate height and spatial clearances for City Trees, as contemplated by Section Fifteen (a) of this ordinance and for the growth and maintenance of Trees, Shrubs and Plants anywhere within the City so as to prevent obstruction, as contemplated by Section Fifteen (b) of this ordinance;
 - iv) rules for protection of City Trees at construction sites, in addition to the provisions of Section Sixteen of this ordinance;
 - v) Poisonous, allergenic or invasive plants in addition those prohibited by Section Twenty of this ordinance.

Section Twenty-Eight *Severability provision*

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

Section Twenty-Nine *Emergency provision; citation*

The passage of this ordinance being necessary for the immediate preservation of public health and welfare it is hereby declared to be an emergency measure and shall become effective immediately upon its passage and approval by the Mayor. This ordinance shall be known and referred to and cited as the "City of St. Louis Forestry Ordinance of 2010"

Approved: March 16, 2010