

2/5/2019
2/7/2019
3/11/2019

15-O-19

AN ORDINANCE

**Amending Portions of City Code Title 7, "Public Ways," Chapter 8
"Trees and Shrubs"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: City Code Subsection 7-8-1, "Regulating Removal of Trees and Certain other Vegetation on Private Property," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

**7-8-1. - REGULATING REMOVAL OF TREES AND CERTAIN OTHER VEGETATION
LOCATED ON PRIVATE PROPERTY.**

SECTION 2: City Code Subsection 7-8-1-1, "Projections over Right-of-Way," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-1-1. - PROJECTIONS OVER RIGHT-OF-WAY.

The projections of boughs, limbs and twigs of trees, shrubs and other vegetation over public right-of-way are hereby declared to be a nuisance. It shall be the duty of the owner or person in possession or control of any premises upon which trees, shrubbery, bushes or other vegetation is located to keep such trees, shrubbery, bushes and other vegetation trimmed so that the boughs, limbs or twigs shall not project over any public right-of-way. The owner or person in possession or control of any premises upon which a tree, bush or vegetation is located, the boughs or limbs of which project over the public right-of-way in any public street, alley, bike lane, or sidewalk in the City, shall keep the boughs or limbs of such tree, bush or vegetation trimmed so that the same shall not block or interfere with any City street light, traffic sign or other City owned infrastructure, or project over such right-of-way at a height of less than eight (8) feet above the sidewalk, or fourteen (14) feet above the street, bike lane, or alley.

SECTION 3: City Code Subsection 7-8-1-2, "Removal of Dead Trees and Limbs," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-1-2. - REMOVAL OF DEAD TREES AND LIMBS.

Any owner or person in possession or control of any real property shall remove any dead or dying trees or dead or dying limbs dangerous to life, limb or property located upon the premises of such owner within thirty (30) days of notice from the Public Works Agency Director or his/her designee served by mail upon the owner or person in possession or control of such property.

SECTION 4: City Code Subsection 7-8-1-3, "Duty to Maintain Vegetation," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-1-3. - DUTY TO MAINTAIN VEGETATION.

The adoption of this Section 7-8-1 shall not affect the provisions of Section 7-2-9 of this Title relative to the duty to keep all trees, shrubs, bushes or plants trimmed, pruned or cut so as not to obstruct the vision of persons using the alleys, streets or sidewalks, as provided in said Section.

SECTION 5: City Code Subsection 7-8-1-2, "Licensed Contractors to Plant, Trim," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-2. - ATTACHMENTS.

SECTION 6: City Code Subsection 7-8-1-2, "Permit Required for Each Job," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-3. - PERMIT REQUIRED FOR EACH JOB.

It shall be unlawful for any person to plant, remove, trim, spray or otherwise treat any tree on any parkway or other public place within the City, unless such person shall first apply for and obtain from the Public Works Agency Director or his/her designee a permit for each job of planting, removing, trimming, spraying or otherwise treating trees, to be undertaken by such person. Such permit shall contain a detailed statement of the

nature of the work proposed and permitted to be done upon such trees, and it shall be unlawful for such person, acting under such permit, to violate any of the provisions of such permit. Such permit shall be issued free, and only to a Certified Arborist by the International Society of Arboriculture. Proof of said certification is required.

Application, information shown; examination. Applications for the permit required herein shall be made directly to the Public Works Agency Director or his/her designee and shall contain the name and address of the applicant, if an individual; the names and addresses of the principal officers, if a corporation; and the names and addresses of the members, if a partnership, together with a brief statement of the experience of each such person in such business. No permit shall be issued unless and until the applicant submits a certificate of insurance naming the City as an additional insured.

SECTION 7: City Code Subsection 7-8-4-1, "Planting Trees on Parkways and Public Places," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

SECTION 8: City Code Subsection 7-8-4-2, "Restricted Parkway Plantings," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-4-1. - RESTRICTED PARKWAY PLANTINGS.

- (A) *Plantings Prohibited In Certain Places.* No tree shall be planted in parkways or other public places unless it is located at least fifteen feet (15') from any crosswalk or intersecting street or alley. It shall be unlawful to plant, install or maintain any shrub, perennial, ornamental grass or annual in the parkway of any street that matures at a height over three (3) feet and it shall be unlawful to plant or install any shrub, perennial ornamental grass or annual without first obtaining a permit from the Director of the Public Works Agency or his/her designee.
- (B) *Planting Permits Required.* Permits issued under this Section shall contain a description of the proposed location of the planting, type of planting, nature of maintenance required and a statement of intent by applicant to maintain said plantings for a minimum of three (3) years. Permits shall be issued free of charge.
- (C) No permits will be issued for any person to plant any tree, bush or shrub in the parkways or other public places of the City or where the same will injure the sewer or drains of the City.

SECTION 9: City Code Subsection 7-8-5, "Injuring, Destroying," of the

Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-5. - INJURING, DESTROYING.

It shall be unlawful for any person to cut down, destroy, break or in any way injure any tree or shrub standing in any parkway or public place, except by permission of the Public Works Agency Director or his/her designee.

SECTION 10: City Code Subsection 7-8-6-4, "Notice to Comply; Failure

to Comply," of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-6-4. - NOTICE TO COMPLY; FAILURE TO COMPLY.

If on laboratory analysis of specimens removed from any elm tree by the City Manager or his/her duly authorized representative, it is determined that such tree is a public nuisance as provided in Section 7-8-6-1 of this Section, or if the City Manager determines that any dead or substantially dead elm or ash trees or dead elmwood or ashwood is a public nuisance, as provided herein, the City Manager shall serve or cause to be served upon the person that is the owner of the lot or parcel of land on which such tree or dead elmwood or ashwood is located, a written notice requiring such owner to comply with the provisions of this Section. If the person upon whom such notice is served fails, neglects or refuses to remove and destroy, and properly dispose of, such elm or ash tree or dead elmwood or ashwood within thirty (30) days after service of such notice, the City Manager or his/her duly authorized representative may proceed to remove and dispose of such tree or dead elmwood or ashwood and assess the cost thereof against the owner of such lot or parcel of land, and the amount of such cost shall be paid by such owner to the City.

If the City removes from any lot or parcel of land in the City, pursuant to the provisions of this Section, any infected elm or infested ash tree which is a public nuisance or any dead or substantially dead elm or ash tree or dead elmwood or ashwood which is a public nuisance, the assessment of the cost of the work done by the City against the owner of the lot or parcel of land involved shall be in addition to the penalties imposed by this Section for any violation or noncompliance with the provisions of this Section.

Service of notice provided for herein shall be first by certified mail, addressed to said owner at his/her last known address. Upon proof of unsuccessful mail delivery, notice shall be served personally by duly authorized representatives of the City Manager. Upon unsuccessful personal service, there shall be one publication in a newspaper of general circulation in the City.

SECTION 11: City Code Subsection 7-8-6-6, "Penalty," of the Evanston

City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-6-6. - PENALTY.

Any person violating any provision of Sections 7-8-6-1 through 7-8-6-5 of this Section by failing, neglecting, or refusing to comply with the provisions of any notice herein provided for, within thirty (30) days after the service thereof, or who shall resist or obstruct the City Manager or his or her duly authorized representative in carrying out the provisions of this Section, shall be prosecuted through the administrative adjudication system of the City and shall be punished by a fine of not less than fifty dollars (\$50.00) and no more than seven hundred fifty dollars (\$750.00) per day per violation.

SECTION 12: City Code Subsection 7-8-8-6, "Permit Requirements," of

the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

7-8-8-6. - PERMIT REQUIREMENTS.

- A. *Permit and compliance required.* No person may conduct or will be entitled to any permit for any activity associated with a regulated activity unless a valid tree permit for the activity is issued in accordance with this Section. No person will be entitled to any tree permit unless the subject property, upon the issuance of the tree permit, is in strict compliance with the terms and provisions of this Section and the terms and provisions of all other applicable laws, ordinances, rules, and regulations of the City and of all other governmental agencies having jurisdiction.
- B. *Exceptions.*
1. *Pruning.* A tree permit is not required for the pruning of any private tree in compliance with the national pruning standards.
 2. *Tree and City emergencies.* In response to notice of an existing tree emergency, the Mayor or the City Manager or his/her designee, are each authorized to waive the requirement for a tree permit or tree permit application. If a tree emergency occurs, the person endangered by the tree emergency may take any reasonable action necessary to avoid or eliminate the immediate danger or hazard. The action taken must be an action that is least likely under the circumstances to cause damage or removal of any trees, and the City assumes no responsibility or liability for any action taken. The person taking the action must report the action taken to any of the above City officials immediately after the action is taken and file an after-the-fact tree application permit within forty-eight (48) hours, which the City Manager or his/her designee will review. If the City Manager or his/her designee determines that a tree emergency existed which justified the damage or removal of the tree(s), an after-the-fact tree permit will be issued with no permit fee charged. If the City Manager or his/her

designee determines that no emergency existed to justify the damage or removal of the tree(s), then the action will be deemed a violation of this Section, and the damaged or removed tree(s) must be replaced pursuant to this Section.

3. *City-let projects.* Tree permits will be required for all City-let projects which have been reviewed by the Public Services Bureau, but all permit fees will be waived.

SECTION 13: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 14: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 15: Ordinance 15-O-19 shall be in full force and effect after its passage and approval.

SECTION 16: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: February 18, 2019

Adopted: March 11, 2019

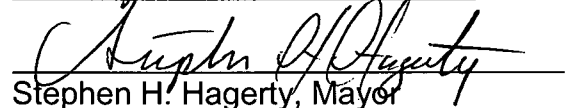
Attest:



Devon Reid, City Clerk

Approved:

April 4, 2019


Stephen H. Hagerty, Mayor

Approved as to form:


Michelle L. Masoncup, Corporation Counsel