

BILL # 8389

ORDINANCE # 8389

AN ORDINANCE ENACTING A NEW TREE PRESERVATION CODE

WHEREAS, after consultation with the Green Space Advisory Commission and city staff, the Council has determined that it is in the best interest of the health, safety and general welfare of the citizens of the City to enact a new tree preservation code which provides for the regulation of the planting, protection, maintenance, and removal of trees, shrubs and other plants within the City of Webster Groves.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEBSTER GROVES, MISSOURI, AS FOLLOWS:

Section 1. A new tree preservation code is hereby enacted as set forth in the attached Exhibit "A" and shall be codified in Chapter 10, Sections 10.310 through 10.360 of the Code of Webster Groves.

Section 2. It is the intended policy of the City Council that enforcement of the tree preservation code shall allow trees and shrubs in City rights of way as of February 3, 2004 to remain so long as they do not pose a threat to public safety or place an unnecessary burden on the use or maintenance of any City right of way.

Section 3. This ordinance shall be printed in the Code of Webster Groves.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect and be in force from and after its passage and approval as provided by law.

PASSED AND APPROVED this 16th day of March, 2004.

Exhibit A
WEBSTER GROVES TREE ORDINANCE

SECTION I. TITLE. This ordinance shall be known and may be cited as the "Webster Groves Tree and Landscape Ordinance" of the City of Webster Groves, Missouri.

SECTION II: PURPOSE and INTENT

- (A) **Purpose.** It is the purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, protection, maintenance, and removal of trees, shrubs, and other plants within the City of Webster Groves, Missouri.
- (B) **Intent.** It is the intent of the City Council of the City of Webster Groves that the terms of this Ordinance shall be construed so as to promote:

- (1) the planting, maintenance, restoration, protection, preservation, and survival of desirable trees, shrubs, and other plants within the City, and
- (2) the protection of community residents from personal injury and property damage, and the protection of the City of Webster Groves from property damage, caused or threatened by the improper planting, pruning, maintenance, or removal of trees, shrubs, or other plants located within the community.

SECTION III: DEFINITIONS. In the following list of terms, the definitions provided shall be used throughout this ordinance:

Adjusted Diameter. The actual diameter of a tree measured at 4.5 feet above ground multiplied by the tree's condition factor. For example, if a tree has a diameter of 32 inches in diameter and is in relatively poor health with a condition rating of 40%, its adjusted diameter is 12.8 inches.

Annual License. A license required by commercial tree companies that plan to prune, remove, or apply pesticides to trees over 12" in diameter on private property or prune or apply pesticides to trees on public property in the City of Webster Groves. An Annual License shall be obtained from the Department of Finance, for a fee, upon showing proof of liability insurance in the amount of \$500,000 and worker's compensation insurance as required by state law.

Caliper. The diameter of a tree measured at six-inches above ground.

City Council. The City Council of the City of Webster Groves, Missouri.

City Engineer. The qualified designated official of the City of Webster Groves, Missouri, or his or her designee, assigned to carry out the enforcement of this ordinance related to City right-of-way and other City-owner property except property in City parks.

City right-of-way. Property within the City limits of the City of Webster Groves, Missouri impliedly or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic.

Condition Factor. A numerical expression of a tree's condition. Typically expressed as a percentage from zero (a dead tree) to 100 (a perfectly healthy tree). The International Society of Arboriculture describes the condition rating process in the manual "Guide for Plant Appraisal", published.

Construction Site. Any property within the City of Webster Groves where demolition, construction, grading, or excavation activity of any kind occurs in the public right of way or where such activity occurs on private property and site plan approval is required or there a building permit for a new primary residence is required.

Container. A planting container that shall be of sufficient size to support and sustain plant material and shall be not less than twenty-four (24) inches in depth and thirty (30) inches in diameter, inside dimensions.

Diameter (DBH). The diameter of a tree at breast height, which shall be measured at 4 ½ feet above ground.

Directional Pruning. Directional, or target pruning, involves removing only those limbs that will come in contact with energized conductors. This reduces the number of times the tree must be pruned and directs growth away from the power lines, thus allowing the tree to achieve its natural height and shape.

Director of Planning and Development. The qualified designated official of the City of Webster Groves, Missouri, or his or her designee, assigned to carry out the enforcement of this ordinance related to private property.

Green Space Advisory Commission. A City Council appointed group of citizen volunteers that provides advice and consultation to the City on any matter pertaining to the Webster Groves Tree Ordinance and to its enforcement (see Section IV of this ordinance.)

Landmark Trees. A tree in fair or better condition, which equals or exceeds the diameter sizes as follows:

Large hardwoods (oaks, hickories, etc.) – 24” DBH;

Large softwoods (pines, spruces, etc.) – 20” DBH;

A tree in “fair or better” condition is defined as a tree having a normal life expectancy, a relatively sound and solid trunk with no extensive decay, no more than one major and several minor dead limb (hardwoods only), and no major insect or disease problems. A lesser-sized tree can be considered a landmark tree if it is a rare or unusual species, of exceptional quality, or of historical significance. Landmark Trees may be designated by the City Council after recommendation by the Green Space Advisory Commission.

Limit of Disturbance. A line as shown on the site plan and Tree Preservation Plan that identifies the limit of construction, demolition, grading, or excavation activity of any kind. This line will typically delineate the Tree Preservation Area.

Maintenance. Any measure considered vital or beneficial to the proper care and cultivation of any tree, shrub, or other plant material. This includes pruning, irrigating, fertilizing, spraying or otherwise applying pesticides, staking, bracing, guying, cabling, wrapping, mulching, insect and disease control, and any other horticultural practices performed as seen necessary to promote the general health of plant material.

Parks and Recreation Director. The qualified designated official of the City of Webster Groves, Missouri, or his or her designee, assigned to enforce the provisions of this ordinance that relate to City parks and to advise the City Engineer and the Director of Planning and Development regarding the enforcement of this ordinance related to City-owned and private property.

Park Trees. Any tree on city-owned property within parks, green spaces, and /or City-owned property to which the public has free access.

Valued Tree. Any Park Tree or any tree of a caliper of 8 inches or greater.

Property Owner. The record owner or contract purchaser of any parcel of land.

Street Trees. Trees on City-owned property within the right-of-way of all streets, avenues, or ways within the City.

Topping. The drastic removal, or cutting back, of large branches in mature trees leaving large, open wounds, which subjects the tree to disease and decay. Topping causes immediate injury to the tree and may ultimately result in its early failure or death. Other names for topping include “heading”, “tipping”, “hat-racking”, and “rounding-over”.

Tree. A woody plant typically growing as a single stem (rarely a multiple stem) in an upright form that will attain a mature height of at least fifteen feet and a DBH of at least two inches.

Tree Canopy Coverage. The area of ground taken up when measuring the branch spread of a tree from branch tip to branch tip, or the area covered by a group or cluster of trees with contiguous (or nearly contiguous) canopies.

Tree Lawn Garden. Any planting or architectural enhancements placed or planted in the city right of way.

Tree and Landscape Manual. A manual that contains the technical information necessary to perform the work outlined in this ordinance.

Tree Permit. A permit obtained from the City of Webster Groves as follows:

Private Property - Application must be made and the appropriate fee paid (as determined by a fee schedule approved from time to time by the City Council) by property owner or developer to the Director of Planning and Development for the following: **(1)** to remove 10,000 square feet or more of tree canopy coverage on private property from a tract three acres in size or greater within a five year period. **(2)** to remove any Valued Tree on private property from a tract less than three acres in size when the removal is associated with any activity requiring a site plan approval or for construction of a new primary structure.

Public Right-of-Way - Application must be made and the appropriate fee paid (as determined by a fee schedule approved from time to time by the City Council) by a property owner or contractor to the City Engineer to plant, remove, excavate within the tree canopy coverage, or otherwise disturb any tree or shrub on any public right-of-way. No person shall be required to obtain a Tree Permit from the City for the routine mowing of grass on public right-of-way. Also, no person shall be required to obtain a Tree Permit for the routine pruning or maintenance of trees or plants upon public rights-of-way, so long as the right of way adjoins the person's real property and the property owner performs the work. Only the City may remove any tree within the public rights-of-way without a Tree Permit as provided in Section VII.

Tree Preservation Area. The tree canopy coverage on a site proposed for development that will not be disturbed by grading or storage of materials or disturbance of any kind. Tree preservation area is a "no-violation" zone that is typically bordered by the limit of disturbance line.

Tree Preservation Plan (TPP). A map-based plan prepared that provides detailed information about the species, diameter (DBH), condition, location, and value of existing trees. The following existing trees shall be shown on the plan: all trees of a caliper of eight inches (DBH) and larger, that are on a Construction Site or within ten feet of the boundary of the entire property upon which the Construction Site is located. Trees meeting the definition of "Landmark Trees" shall be so identified. The dollar value of each Valued Tree shall be calculated

using methodology developed by the International Society of Arboriculture and described in their guidebook "Guide to Plant Appraisal" (available at www.isa-arbor.com). The plan shall provide the City with a professional opinion regarding the survivability of trees on the site and shall provide detailed information about which trees are planned for protection and which trees are to be removed. Details shall be included about protective measures, including the use of root pruning, retaining walls, etc. A "Limit of Disturbance Line" shall indicate the border of areas where no grading is to occur and shall delineate the Tree Preservation Areas. An aerial photo of the site at a scale similar to or equal to the TPP map may be included. In areas where large groupings (>10,000 square feet of contiguous tree canopy coverage) of trees greater than a caliper of eight inches (DBH) exist, individual trees within the interior of the grouping need not be plotted if no grading or other tree disturbance is planned. Trees located within twenty feet of the edge of the grouping, adjacent to areas planned for grading, shall be mapped and identified.

On sites where tree replacement is required, or proposed, the new plantings shall be shown and identified as to species, location and size. A table shall be provided that lists the quantity and size, by species, of each tree to be planted along with a tabulation of the total number of caliper inches required and the total number of caliper inches provided by replanting.

SECTION IV: THE GREEN SPACE ADVISORY COMMISSION

- (A) **Duties.** The Green Space Advisory Commission shall advise and consult with the City Engineer, Director of Planning and Development and the Parks and Recreation Director on any matter pertaining to the Webster Groves Tree Ordinance and to its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
- (1) Amendments to the Webster Groves Tree Ordinance, and alterations or revisions to the Tree and Landscape Manual.
 - (2) Policies concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the City.

- (3) Establishment of educational and informational programs whereby the public may be notified of any matters pertaining to the Webster Groves Tree Ordinance and to the Tree and Landscape Manual.
- (4) Development of a program for optimizing the tree, shrub, and other plant resources within the City of Webster Groves.

SECTION V: DEPARTMENT HEAD DUTIES

(A) **Combined Duties.** The City Engineer, the Director of Planning and Development and the Parks and Recreation Director shall collaborate to perform the following duties relative to this Ordinance:

- (1) Administer, enforce and carry out the provisions of the Webster Groves Tree and Landscape Ordinance and the provisions of the Tree and Landscape Manual with collaboration and any needed assistance from other City staff.
- (2) Develop and periodically review and revise or amend, if necessary, the Tree and Landscape Manual, which shall contain regulations and standards for the planting, protection, maintenance, and removal of trees, shrubs, and other plants upon City right-of-way.

(B) **City Engineer Duties**

- (1) Administer the planting, protection, and maintenance of trees, including the removal of undesirable trees, shrubs, and other plants located on City right-of-way to insure that all trees, shrubs, and other plants located on City right-of-way conform with the comprehensive, long-range program for the optimization of the tree, shrub, and other plant resources of the City of Webster Groves and the regulations and standards of the Tree and Landscape Manual, and with the requirements of this Ordinance. Pursuant to this duty, the City Engineer, in accordance with normal City procedures regarding contracts, may arrange contractual agreements with any property owner.
- (2) Prevent actions or operations that could cause harm to trees, shrubs, and other plant material on City right-of-way.

- (3) Prevent the topping of any tree on City right-of-way, and to prevent any person working for hire within the corporate limits of the City of Webster Groves from topping any tree on City right-of-way.

(C) **Director of Planning and Development Duties**

- (1) Order the removal or other abatement of any plant material on private or City-owned property that has been declared a nuisance or endangers public health or well-being.
- (2) Issue warnings to property owners not complying with clear sight standards at intersections, and issue citations in cases of noncompliance.
- (3) Issue Tree Permits for the removal of trees on private property when required by the provisions of this ordinance.

(D) **Parks and Recreation Director Duties**

- (1) Administer the planting, protection, and maintenance of trees, including the removal of undesirable trees, shrubs, and other plants located in City parks in order to insure that all trees, shrubs, and other plants located in City parks conform with the comprehensive, long-range program for the optimization of the tree, shrub, and other plant resources of the City of Webster Groves and the regulations and standards of the Tree and Landscape Manual, and with the requirements of this Ordinance.
- (2) Provide technical expertise to the City Engineer and the Director of Planning and Development when needed.

- (E) **City Manager Duties.** Appoint the staff liaison to the Green Space Advisory Commission.

SECTION VI: LICENSING

- (A) **Annual License; When Required.** An annually renewable license is required by commercial tree companies that plan to prune, remove, or apply pesticides to trees over 12" in diameter (DBH) on private property within the City of Webster Groves; or prune or apply pesticides on trees on public property in the City of Webster Groves.
- (B) **Application.** An Annual License may be obtained from the Department of Finance, for the fee then in effect, upon showing proof of liability insurance in the

amount of \$500,000 and worker's compensation insurance as required by state law.

- (C) **Standards of Issuance**. The Director of Finance shall issue the Annual License to an individual or firm meeting the criteria specified above. The license shall be valid for a period of one year from the date of issuance.

SECTION VII: PLANTING, MAINTENANCE, OR REMOVAL OF TREES ON PUBLIC RIGHT-OF-WAY.

- (A) **Protection of Public Utilities and Improvements; Felling of Trees Along Streets, Tree Permits on City Right-of-Way.** No person except for City work crews shall plant, perform maintenance on, spray, fertilize, cut above or below ground, excavate near, remove or otherwise disturb any tree or shrub on any City right-of-way without first filing an application and procuring a Tree Permit from the City Engineer. The person receiving the permit shall abide by all conditions stated on the permit and by the standards outlined in the Tree Manual. No person shall be required to obtain a Tree Permit from the City for the routine mowing of grass on City right-of-way. Also, no property owner shall be required to obtain a Tree Permit for the routine pruning or maintenance of trees or plants upon public rights-of-way, so long as the right of way adjoins that property owner's real property and the property owner performs the work.
Contractors must obtain a Tree Permit for any planting or pruning of trees for hire on City right-of-way. Contractors can apply for and receive an Annual License that permits them to prune City-owned trees when contracted by the adjacent property owner. Only the City may remove any tree within the public rights-of-way without a Tree Permit as required herein.
- (B) **Application for Tree Permits** for work on City owned trees must be made not less than two (2) weeks in advance of the time the work is to be done, unless otherwise permitted by the City Engineer.
- (C) **Standards of Issuance**. The City Engineer shall issue a Tree Permit as provided for herein if, in his/her judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. The City Engineer will issue a Tree Permit to Contractors retained by a property owner that is adjacent to City right-of-way and if the contractor currently holds a valid Annual License issued by the City. Any Tree Permit granted shall contain a

definite date of expiration and the work shall be completed in the time allowed on the permit and only in the manner as therein described. Any Tree Permit shall be void if its items are violated.

- (D) **Street Trees Planted in the Public Right-of-Way.** The following arboricultural specifications and standards of practice for street trees to be planted in the public right-of-way are hereby adopted by the City.

(1) Size.

(a) Unless specified by the City Engineer, all medium to large deciduous tree species and their cultivars and varieties, shall conform to both International Society of Arboriculture and the regulations and standards of the Tree and Landscape Manual and have a caliper of at least 1 ¼ to 1 ½ inches when planted. The crown shall be in good balance with the trunk.

(b) All small deciduous trees species and their cultivars or varieties, shall be at least five (5) to six (6) feet in height when planted.

(2) Grade.

Unless other wise allow for substantial reasons, all standard sized trees shall have comparatively straight trunks, well-developed leaders, top and root characteristics of the species or variety showing evidence of proper nursery pruning. All trees must be free of insects, disease, mechanical injuries and other objectionable features at the time of planting.

(3) Species and Location.

Trees may be planted in the public right-of-way provided the following conditions are met:

(a) The tree to be planted shall be selected from a list of acceptable street trees maintained by the City Engineer as an approved species, cultivars or variety of street tree;

(b) A tree within public right-of-way is not located within the clear sight area of the intersection of the right-of-way of public streets as defined under Section IX of this ordinance; is at least fifteen (15) feet from driveways and alley; and is at least ten (10) feet from any fire hydrant;

(c) Trees to be planted in the rights-of-way of streets are in conformity with this ordinance and a Tree Permit has been received from the Department of Public Works;

(d) Trees planted within the right-of-way are spaced so as to be no closer than forty (40) feet on center for all large trees; thirty-five (35) feet on center for all medium trees; and twenty-five (25) feet on center for all small trees;

(e) No tree shall be closer than ten (10) feet of a utility pole.

(f) No tree is to be planted in any area between a sidewalk and curb that is less than five (5) feet wide;

(g) Trees are placed after determining location of utilities so as to avoid interference with utilities.

(E) **Notice of completion** shall be given within five (5) days to the City Engineer for his/her inspection.

(F) **Improper Planting.** Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be deemed a public nuisance and it shall be lawful for the City Engineer to remove or cause removal of the same according to the procedures set forth herein, and the exact cost thereof shall be assessed to the violator as provided by law.

(G) **City's Rights.** The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. Additionally, the City Engineer may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, curbs, sidewalks or other existing or proposed public improvements, or is infected with any injurious disease, fungus, insect or other pest. This Section does not prohibit the planting of street trees within the public right-of-way by adjacent property owners providing that a Tree Permit has been obtained and the selection and location of said trees is in accordance with the Tree and Landscape Manual.

(H) **Felling of Trees on Streets.** The City Engineer shall be, for the purpose of this article, notified prior to the time that any tree is to be trimmed or removed if such tree or any portion thereof will fall on a street, sidewalk, or alley. All current City

ordinances and agreements shall be observed. No person shall close any street, alley, sidewalk, roadway, or traveled way in the City without first obtaining approval for such closing from the City Engineer.

- (1) The person to whom the permit is issued shall be responsible for placing such signs, flags, flares, and barricades as are needed to warn persons of the danger of using the street, sidewalk, or alley.
 - (2) No trees shall be felled onto any street without having persons stationed in the streets to stop traffic from both directions at the time the tree is being dropped.
 - (3) Trees or branches which are felled or trimmed onto public property must be removed immediately unless an extension of time is granted by the City Engineer in writing.
 - (4) Stump removal cavities shall be cleared and refilled with soil in the same operation. At no time shall a cavity remain unfilled overnight without adequate pedestrian and/or vehicular protection.
 - (5) Insurance. Before any tree or branch is felled onto public right-of-way, the applicant must provide to the City Engineer a Certificate of Insurance in the amounts as required for the issuance of an Excavation Permit. The insurance certificate shall also name the City of Webster Groves as an Additional Insured and Certificate Holder in all liability insurance.
- (I) **Utilities and Telecommunications Companies** shall use directional pruning unless the City otherwise consents in writing.

SECTION VIII: OBSTRUCTION - PLANT MATERIAL

- (A) **Pruning to Abate Obstructions.** It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees located on their private property in such manner that they will not obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks and ten (10) feet over all streets except arterial streets, which shall have a clearance of twelve (12) feet.

- (B) **Notice to Prune.** Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the Director of Planning and Development shall deem the offending limbs, trees, or shrubs as a public nuisance and order such person or persons, within ten (10) days after receipt of written notice to so prune such trees. The provisions of Section XI of this ordinance, "Public Nuisances" shall apply.
- (C) **Order Required.** The order required herein shall be served by mailing a copy of the order to the last known address of the property owner.
- (D) **Failure to Comply.** When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the City to prune such trees, and the exact cost thereof plus reasonable administrative costs shall be assessed to the owner as provided by law in the case of special assessments. The provisions of Section XI of this ordinance, "Public Nuisances" shall apply.

SECTION IX: CLEAR SIGHT DISTANCE AT STREET INTERSECTIONS.

- (A) **Purpose.** In order to promote greater safety at street intersections, it is in the public interest that shrubs, solid fences, and other interferences with the sight of pedestrians or of operators of vehicles at such intersections be regulated in accordance with the clear sight distance standards hereinafter set forth.
- (B) **Sight-distance Triangle on Private Property.** On a corner lot, development shall conform to the requirements of a sight-distance triangle in which nothing shall be erected, placed, planted, or allowed to grow between a height of thirty (30) inches and ten (10) feet above the grades at the back of the curb (or edge of pavement where no curb exists) of the intersecting streets (thirty inches and 12 feet for arterial streets), and within the area described by standards set forth by St. Louis County Department of Highways and Traffic for sight distance at intersections.
- (C) **Enforcement of Clear Sight Standards.** The Director of Planning and Development shall be responsible for issuing warnings to property owners not complying with the clear sight standards herein specified, advising them of proper application of same in relation to their property, and issuing citations for enforcement if noncompliance continues. The provisions of Section X of this ordinance, "Public Nuisances" shall apply.

SECTION X: CONTAINER PLANTING AND TREE LAWN GARDENS.

- (A) **Generally.** No person shall establish a container or tree lawn garden either above or below ground for plants in the public right-of-way without written approval of the City Engineer.
- (B) **Application Procedure.** The petitioner shall submit a request complete with detailed design to the City Engineer. The provisions outlined in “Planting, Maintenance, Removal” (Section VI) of this ordinance shall apply.
- (C) **Installation Requirements.** Installation requirements for containers or tree lawn garden for plants on public right-of-way area are as follows:
- (1) No container shall be placed closer than twenty (20) feet to street intersections (property lines extended) and fifteen (15) feet to driveways and alleys. “Obstruction” (Section VII) and “Clear Sight Distance” (Section VIII) provisions of this ordinance shall apply.
 - (2) The planting medium shall be of sufficient size to support and sustain plant material and the container shall be not less than twenty-four (24) inches in depth and thirty (30) inches in diameter, inside dimensions.
 - (3) The tree lawn garden shall be maintained such that it shall not impede access to vehicles parked on public streets.
- (D) **Maintenance.** Containers or tree lawn gardens and their complete maintenance become the responsibility of the abutting property owner.
- (1) All costs arising from the establishment, maintenance or removal of plants or plant containers are to be borne by the abutting property owner.
 - (2) Containers, plants, and their contents must be maintained in the condition specified by original design at all times. Any planter or tree lawn garden not serving its designed aesthetical function shall be replanted or removed.
- (E) **Notice to Replant or Remove.** Any container or tree lawn garden and plant material not maintained to quality and design standards as required by the City Engineer is hereby declared a nuisance and it shall be lawful for the City Engineer to remove or cause removal of the same according to the procedures set forth herein.
- (F) **Freedom from Liability.** Any person granted the right to place or establish containers on public property pursuant to this section shall execute an

indemnification agreement approved by the City Attorney wherein the applicant agrees to indemnify and save the City harmless from any and all liability which may be incurred as a result of the placement of such containers and their contents.

SECTION XI: PUBLIC NUISANCES

(A) **List of Nuisances.** The following are hereby declared public nuisances under this Ordinance:

- (1) Any dead or hazardous tree or tree limb that threatens adjacent property, public right-of-way, or on-site property improvements.
- (2) Any tree infected with Dutch Elm Disease or Oak Wilt (or any other highly infectious disease or insect that threatens to become epidemic unless otherwise controlled under emergency situations).
- (3) Any tree, shrub, other plant or portion thereof which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public.
- (4) Any tree, shrub, or other plant or portion thereof which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a traffic light or sign. Any tree, shrub, or other plant or portion thereof shall be deemed to be an obstruction to pedestrian traffic if it is lower than eight (8) feet above a sidewalk; and an obstruction to vehicular traffic if it is lower than ten (10) feet above streets, except arterial streets, which shall be deemed obstructed if any portion of a tree, shrub or plant is lower than twelve (12) feet above an arterial street.
- (5) Any tree, shrub, or other plant or portion thereof that dangerously obstructs the view of traffic in the "clear sight area" of street intersections as such may be determined by the City Engineer.

(B) **Abatement of Public Nuisances.** The following are the prescribed means of abating public nuisances under this Ordinance:

- (1) Any public nuisance, under this Ordinance, which is located on City right-of-way shall be pruned, removed, or otherwise treated by the City Engineer or his/her designee, after consultation with the Parks and Recreation Director, to abate the nuisance within a reasonable

time after its discovery according to the procedures set forth in Chapter 31 of the Code of Webster Groves (this "Code").

- (2) Any public nuisance under this Ordinance that is located on private property shall be pruned, removed, or otherwise treated by the property owner or his/her agent to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the City has complied with the procedures set forth in Chapter 31 of this Code relating to nuisances, and:
 - (a) such notice shall describe with particularity the tree, shrub, or other plant that has been declared to be a public nuisance;
 - (b) such notice shall state with particularity the alternative actions that the property owner may undertake to abate the nuisance.
- (C) **Immediate Abatement of Serious Hazards.** The provisions of subsections (B) (1) and (B) (2) of this Section notwithstanding, the City is hereby empowered to cause the immediate abatement of any public nuisance under this Ordinance in compliance with the procedures set forth in Chapter 31 of this Code.
- (D) **Access to Private Property for Inspection.** The Director of Planning and Development, or his/her designated representative, shall have all such rights as are allowed by law to enter upon private property for the purpose of determining the presence of serious hazards as described above.

SECTION XII: INTERFERENCE WITH CITY OFFICIALS

No person shall unreasonably hinder, prevent, delay, or interfere with Parks and Recreation Director any City official, officer or designee engaged in the execution or enforcement of this Ordinance.

SECTION XIII: PROHIBITED ACTS

It shall be unlawful and a violation of this Ordinance for any person or contractor to:

- (A) Damage, cut, carve, prune, or transplant any tree or shrub on public property without a Tree Permit issued by the City Engineer.
- (B) Remove any tree within the public right-of-way.
- (C) Prune trees by Tree Topping - It shall be unlawful for any person for hire to top any tree, whether on private or City-owned property or public right-of-way, within the corporate limits of the City of Webster Groves. Contractors that prune trees

- for hire on public or private property and top trees in the performance of their work shall have their Tree Permit and Annual License revoked immediately.
- (D) Attach any rope, wire, nails, posters, or other contrivance to any tree on City owned property or public right-of-way unless protective measures approved by the City Engineer after consultation with the Parks and Recreation Director are taken.
 - (E) Attach any electrical insulation to any public tree or shrub.
 - (F) Use tree spurs or climbing spikes on trees located on City owned property or public right-of-way except with specific written permission of the City Engineer after consultation with the Parks and Recreation Director.
 - (G) Deposit, store, or maintain on City-owned property or public right-of-way any stone, brick, sand, concrete, lumber, tile, pipe, equipment, or other material which reasonably may be expected to impede the free passage of water, air or fertilizer to the roots of any tree, shrub, or other plant;
 - (H) Cause any gaseous, liquid, or solid substance which because of the nature or amount reasonably may be expected to be toxic or otherwise harmful to trees, shrubs, or other plants to be located where such substances reasonably may be expected to affect trees, shrubs, or other plants on City-owned property or public right-of-way.
 - (I) Cause any fire to burn on City-owned property or public right-of-way or private property if such fire, or the heat, smoke, or ash therefrom reasonably may be expected to injure any portion of any tree, shrub, or other plant located on City-owned property or public right-of-way, provided, however, this subsection shall not be construed to exempt any person from complying with State laws or Ordinances of the City of Webster Groves respecting burning.

SECTION XIV: TREE PRESERVATION REQUIREMENTS; SITES OF THREE ACRES OR MORE IN SIZE.

- (A) **Tree Removal Associated With Construction or Development Activities.** On tracts of land that are equal to or greater than three acres in size, a Tree Permit, as issued by the Director of Planning and Development, is required to remove or destroy 10,000 sq ft or more of tree canopy coverage within a five-year period (from the date the permit is issued) on each individual tract of that size. The removal of diseased, or dead trees, and trees that are a public nuisance is

exempt. The property owner or developer must apply for and secure the Tree Permit before any removal or destruction commences. An application for a Tree Permit shall be submitted to the office of the Director of Planning and Development and pursuant to Section XIV (A), above, and shall include the following:

- (1) A Tree Preservation Plan, Site Plan and a landscape plan prepared by a landscape architect registered in the State of Missouri for approval by the Plan Commission and Architectural Review Board.
- (2) A surety or cash escrow for the benefit of the City of Webster Groves to account for trees that die, or are damaged beyond repair, as a result of grading or construction damage within a two-year period after the issuance of the final occupancy permits. The amount of the surety required shall be in the amount of \$2,000 for each acre of the tree preservation area, or \$5,000 whichever is greater. (The escrow shall not be required for applicants building on single-family residential zoned lots.)

The Director of Planning shall review all Tree Permits requesting tree removal and Development for compliance with these regulations and either approved, approved with conditions, returned for revisions, or denied within 45 days of receipt. Approval shall be based upon the reasonable efforts to preserve trees on the site as determined by the Director of Planning and Development.

- (B) **Denial of Tree Removal Permit – Right of Appeal.** In the event the Director of Planning and Development denies a Tree Permit application associated with development activities, the applicant may appeal such decision to the Greenspace Advisory Commission.
- (C) **Required Tree Protection.** On tracts of land equal to or greater than three acres in size, no more than 70% of the existing tree canopy coverage may be cleared or developed. The remaining 30% shall be maintained without disturbing the roots of trees in the protected area. Any Valued Trees removed during development that exceeds the 30% canopy protection provision are subject to the replacement provisions outlined in Section XIV (D) below.
- (D) **Required Tree Replacement.** Replacement of trees is required when the tree

protection requirements in Section XIV(C) above cannot be met.

(1) Tree replacement shall occur in a sufficient quantity to create tree canopy coverage on the site equal to thirty percent of the existing tree canopy coverage. New trees to be planted shall be no less than two inches in caliper and no greater than four inches in caliper unless otherwise approved by the Director of Planning and Development. Each newly planted tree shall account for 400 square feet of tree canopy coverage towards the required replanting. If sufficient space on-site is not available for replanting the required number of trees, the owner/developer may either provide replacement trees for planting on City property where the City permits or, in lieu thereof, may make a payment to the City of Webster Groves at a monetary value of \$80 per tree with a cap of \$2,000 per acre.

- (E) **Replacement Standards.** All replacement plantings shall be performed according to the latest standards set forth by the International Society of Arboriculture and by utilizing species found on the plant lists in the Tree and Landscape Manual unless the desired species is approved by the Director of Planning and Development after consultation with the Parks and Recreation Director. In a case where all replacement trees cannot be planted on site, the trees can be planted on other sites in the City of Webster Groves that are approved by the Director of Planning and Development, Parks and Recreation Director, or City Engineer. Alternatively, the owner/developer may make a payment to the City of Webster Groves equal in value to the value of the replacement trees required. The City shall use all such payments for the planting of trees on City-owned property.
- (F) **Prior to issuing any occupancy permits,** should any preserved tree die or become damaged as a result of grading or construction, the owner/developer shall pay an assessment equal to the value of the trees that die, are damaged beyond repair, or are removed. The value of the trees shall be determined using the International Society of Arboriculture's methodology of tree appraisal. (Copies of the booklet outlining the methodology are available from ISA at PO Box 3129; Champaign, IL; www.isa-arbor.com). The City shall withhold any Occupancy Permits until such assessment is paid. Assessments shall be paid from any existing sureties or escrows.

- (G) **Within a two-year period after the occupancy permit is issued**, the owner/developer shall replace protected trees that die, or are damaged beyond repair, as a result of grading or construction damage as determined by a certified arborist. The number of replacement trees shall be determined by the formulas in Section XIV (D) above. Failure to plant successfully shall constitute a default and the City of Webster Groves shall be entitled to proceed against the surety or escrow. Replacements shall be planted on site unless the density of the planting becomes unreasonable. In cases where all replacement trees cannot be planted on site, the trees may be planted on other sites in the City of Webster Groves that are approved by the Director of Planning and Development, Parks and Recreation Director, or City Engineer. Alternatively, the owner/developer may make a payment to the City of Webster Groves in an amount calculated by using the formulas in Section XIV D. above. The City shall use such payments for the planting of trees on City-owned property.

SECTION XV: TREE PRESERVATION REQUIREMENTS; SITES OF LESS THAN THREE ACRES IN SIZE.

- (A) **Tree Removal Associated With Construction or Development Activities.**

On tracts of land less than three acres in size, a Tree Permit is required from the Director of Planning and Development for the removal or disturbance of any Valued Tree when such removal or disturbance is associated with a development that requires site plan approval or requires a building permit for the construction of a new primary structure. The property owner or developer shall make application and secure a permit before any removal or disturbance commences.

An application for a Tree Permit under Section XIV (A) above shall include the following:

- (1) A Tree Preservation Plan (TPP - see definitions) and a Site Development Plan (if applicable) to the Director of Planning and Development.
- (2) The applicant shall post a surety or cash escrow for the benefit of the City of Webster Groves to account for trees that die, or are damaged beyond repair, as a result of grading or construction damage within a

two-year period after the issuance of the final occupancy permits. The amount of the surety required shall be in the amount of \$2,000 for each acre of the tree preservation area, or \$5,000 whichever is greater. (The escrow shall not be required for applicants building on single-family residential zoned lots.)

The Director of Planning shall review all Tree Permits requesting tree removal and Development for compliance with these regulations and either approved, approved with conditions, returned for revisions, or denied within 45 days of receipt. Approval shall be based upon the reasonable efforts to preserve trees on the site as determined by the Director of Planning and Development.

- (B) **Denial of Tree Removal Permit – Right of Appeal.** In the event the Director of Planning and Development denies a Tree Permit application associated with development activities, the applicant may appeal such decision to the Greenspace Advisory Commission.
- (C) **Required Tree Protection.** *Each Valued Tree shall be protected during development. Each Valued Tree removed during development is subject to the replacement provisions outlined below.*
- (D) **Required Tree Replacement.** Replacement of Valued Trees is required when the tree protection requirements in Section XIV(C) above cannot be met. Tree replacement shall occur in such amounts so that the total caliper measurement of all replacement trees must equal one-half the total adjusted diameter measurement of removed Valued Trees. If sufficient space on-site is not available for replanting the required number of trees, the owner/developer may provide replacement trees for planting on City property where the City permits or, in lieu thereof, may make a payment to the City of Webster Groves at a monetary value of:
- 1)** For non-residential property -- \$80 per replacement caliper inch with the total required payment not to exceed \$2,000 per acre.
 - 2)** For single-family residential property -- \$80 per replacement caliper inch with the total required payment not to exceed \$ 800.00 per lot.
- (E) **Replacement Standards.** All replacement plantings shall be performed according to the latest standards set forth by the International Society of Arboriculture and by utilizing species found on the plant lists in the Tree and Landscape Manual unless the desired species is approved by the Director of

Planning and Development after consultation with the Parks and Recreation Director. In a case where all replacement trees cannot be planted on site, the trees can be planted on other sites in the City of Webster Groves that are approved by the Director of Planning and Development, Parks and Recreation Director, or City Engineer. Alternatively, the owner/developer may make a payment to the City of Webster Groves equal in value to the value of the replacement trees required. The City shall use all such payments for the planting of trees on City-owned property.

- (F) **Prior to issuing any occupancy permits**, should any Valued Tree die or become damaged as a result of grading or construction, the owner/developer shall pay an assessment equal to the value of the trees that die, are damaged beyond repair, or are removed. The value of the trees shall be determined using the International Society of Arboriculture's methodology of tree appraisal. (Copies of the booklet outlining the methodology are available from ISA at PO Box 3129; Champaign, IL; www.isa-arbor.com), but in no event more than \$800 per lot for residentially zoned lots. The City shall withhold any Occupancy Permits until such assessment is paid. Assessments shall be paid from any existing sureties or escrows.
- (G) **Within a two-year period after the occupancy permit is issued**, the owner/developer shall replace Valued Trees that die, or are damaged beyond repair, as a result of grading or construction damage as determined by a certified arborist. The number of replacement trees is determined by the formulas in Section XIV (D). Failure to plant successfully shall constitute a default and the City of Webster Groves shall be entitled to proceed against the surety or escrow. Replacements shall be planted on site unless the density of the planting becomes unreasonable. In a case where all replacement trees cannot be planted on site, the trees may be planted on other sites in the City of Webster Groves that are approved by the Director of Planning and Development, Parks and Recreation Director, or City Engineer. Alternatively, the owner/developer may make a payment to the City in an amount equal to the value of the trees, as determined above. The City of Webster Groves shall use such payments for the planting of trees on City-owned property.

Section XVI: VIOLATION AND PENALTY

Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to the provisions of this Ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed Two Hundred Fifty Dollars (\$250.00) for each separate offense. Each day during which any violation of this provision of this Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on 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 City staff using the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens, as published by the International society of Arboriculture.

SECTION XVII: SEVERABILITY

If any provision of this Ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the Ordinance which can be given effect without the invalid provision or applications shall not be affected, and to this end the provisions of the Ordinance.