

Request for City Council Action

Date: April 28, 2015

Agenda Section: General Business	Originating Department:
No. 6	Public Works – Forestry
Item: An Ordinance Amending Title Seventeen, Chapter Ten of the Carbondale Revised Code to Provide for the Protection and Preservation of Trees and the Licensing of Tree Trimmers And Cutters	Approved
No. 6.5	

Background:

City Staff has been working on revising the City’s Tree Care Ordinance (Title 17, Chapter 10 – Trees, Bushes and Shrubs of the Carbondale Revised Code) for some time now. The intent of these revisions is to provide for the proper and needed protection of trees within our community as well as to provide the citizens of Carbondale with safeguards to insure that persons performing tree trimming and cutting within the City of Carbondale are appropriately insured and aware of tree trimming and cutting requirements.

Considerable discussion was had by the City Council on June 24, 2014 on the proposed revisions; Staff has made revisions based on this discussion and is presenting an ordinance for consideration of the City Council. The concerns brought forth by Council Members included: concerns about possible licensing and enforcement issues as the licensing requirement was too broad; concerns about which publicly owned property was included in the ordinance; concerns about deposit amounts for tree work by licenses tree trimmers and cutters; concerns about successor property owners being notified about the tree care requirements for the Private Property Shade Tree Incentive Program; concerns that regulation of trees on private property was not needed to begin with; concerns about both prohibited and permitted tree and various suggestions related to these topics; concerns about the reference to the state noxious weed law; concerns about plantings being allowed too close to the right-of-way lines and sidewalk; concerns about license holders, prohibited tree, and permitted tree lists being readily available to the general public; and consensus that the licensing requirement should be for work on substantial trees only. Recently the City Council also expressed concerns about the preservation of “Heritage Trees” throughout the City.

The major changes to Title 17, Chapter 10 of the Carbondale Revised Code are as follows:

- Updates and additions to definitions
- Revisions to planting regulations and requirements
- Addition of Regulations for Removal of Trees in a Public Place
- Prohibition of the “Topping” of trees anywhere in the City
- Addition of a Tree Trimmer and Cutter License Requirement (this includes an annual fee, minimum liability and workers compensation insurance requirements, removal and disposal of debris requirements, provisions for written estimates, maximum deposit amounts, and license suspension and revocation provisions)
- Exemptions allowing non-licensed Tree Cutter and Trimmers to perform work on ornamental trees and trees less than 12” in diameter; as well as perform work on larger trees that does not necessitate the use of a bucket truck, lift or similar device
- Addition of a Private Property Shade Tree Incentive Program
- Protection for Heritage Trees throughout the City
- Provisions for Staff to make readily available to the general public, update, and maintain both prohibited and recommended tree lists for planting in public places

While reviewing the existing code, staff also made various typographical corrections and updates.

Recommended Action:

The City Council is requested to adopt the revisions to Title 17, Chapter 10 – Trees, Bushes, and Shrubs as presented.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015 - ____

**AN ORDINANCE AMENDING TITLE SEVENTEEN, CHAPTER TEN
OF THE CARBONDALE REVISED CODE TO PROVIDE FOR THE
PROTECTION AND PRESERVATION OF TREES AND THE
LICENSING OF TREE TRIMMERS AND CUTTERS**

ADOPTED BY THE CITY COUNCIL

OF THE CITY OF CARBONDALE, ILLINOIS

THE 28th DAY OF APRIL, 2015

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 29th day of April, 2015.

CERTIFICATE OF PUBLICATION

I, Jennifer Sorrell, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 29th day of April, 2015.

Jennifer R. Sorrell, City Clerk
City of Carbondale, Illinois

ORDINANCE NO. 2015 -

**AN ORDINANCE AMENDING TITLE SEVENTEEN, CHAPTER TEN
OF THE CARBONDALE REVISED CODE TO PROVIDE FOR THE
PROTECTION AND PRESERVATION OF TREES AND THE
LICENSING OF TREE TRIMMERS AND CUTTERS**

WHEREAS, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City of Carbondale in Title 17 of the Carbondale Revised Code, Chapter 10, provides regulations for trees, bushes, and shrubs; and

WHEREAS, the City desires to have appropriate regulations for trees, bushes, and shrubs pursuant to Chapter 10 of Title 17 for the citizens of Carbondale; and

WHEREAS, the City of Carbondale has determined that changes are required for the necessary and proper regulation, preservation, and protection of trees, bushes and shrubs to better provide for the safety, health and welfare of the citizens of Carbondale; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Chapter 10 of Title 17 of the Carbondale Revised Code to meet the current and future needs of the citizens of Carbondale.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:**

SECTION 1. That Chapter 10 of Title 17 of the Revised Code of the City of Carbondale is hereby deleted in its entirety and a new Chapter 10 is hereby added as shown in Exhibit “A” attached hereto and made a part hereof.

SECTION 2. All of the remaining sections of Title 17 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 3. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 4. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

SECTION 5. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 6. That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

SECTION 7. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

Chapter 10 TREES, BUSHES AND SHRUBS

17-10-1: DEFINITIONS

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

17-10-3: PUBLIC PLACES - PERMITS REQUIRED

17-10-4: GROWING A TREE, BUSH, SHRUB OR PLANT ON OR NEAR PUBLIC PLACES

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

17-10-6: ABUSE OR MUTILATION OF TREES, BUSHES, SHRUBS OR PLANTS

17-10-7: TREE TRIMMER AND CUTTER LICENSE REQUIRED

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

17-10-9: PENALTY

17-10-1: DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BUSH: A low densely branched shrub.

DIAMETER BREAST HEIGHT (DBH): The diameter of a tree measured at 54 inches above the ground.

HERITAGE TREE: Any tree having an 18" or larger DBH.

PERSON: A person, firm, partnership, association, corporation, company, or organization of any kind.

PLANT: a living organism of the kind exemplified by trees, shrubs, herbs, grasses, ferns, and mosses, typically growing in a permanent site, absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis.

PUBLIC PLACE: Public street right-of-way and City owned land or property.

SHRUB: A woody perennial plant smaller than a tree with several main perennial stems arising at or near the ground.

TOPPING: The severe cutting back of limbs to stubs larger than 3" in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TREE: A wood plant having one erect perennial stem (trunk) at least 3” in diameter with a mature height of at least 13 feet planted in a public or private place, except where otherwise indicated.

TREE SIZES (ORNAMENTAL, SMALL, MEDIUM, AND LARGE): Ornamental trees have an ultimate height of less than 20 feet. Small trees have an ultimate height of 20 to 30 feet or a 15 to 25 foot spread; medium trees have an ultimate height of 30 to 50 feet or a 30 to 40 foot spread; large trees have an ultimate height of greater than 50 feet or over a 40 foot spread.

TRIMMER AND CUTTER: A tree trimmer and cutter means any person who for a fee engages in any manner in pruning, trimming, cutting, bracing or removal of trees whether the trees in question are diseased or not diseased.

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

The City Manager or his designate shall have exclusive jurisdiction and supervision over all trees, bushes, shrubs or other plants, and grassy areas planted or growing in public places.

- A. **Preserve or Remove:** The City Manager or his designate shall have the authority, and it shall be his duty, to plant, trim, spray, preserve and remove trees, bushes, shrubs or other plants and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.
- B. **Order to Preserve or Remove:** The City Manager or his designate shall have the authority, and it shall be his duty, to order the trimming, preservation or removal of trees, bushes, shrubs or plants upon private property when he shall find such action is necessary to insure public safety or to prevent the spread of disease or insects to trees, bushes, shrubs or plants in public places or on privately owned land. .
- C. **Supervision:** The City Manager or his designate shall have the authority, and it shall be his duty, to supervise all work done under a permit issued in accordance with the terms of this Chapter.
- D. **Uniform Plan:** It shall be the public policy of the City to plant trees in accordance with a uniform plan to be determined by the City Manager or his designate along rights of way of all new or reconstructed streets, and where other public improvements cause trees to be removed. (Ord. 78-18)
- E. **Issue Conditional Permit:** The City Manager or his designate shall have the authority to affix reasonable conditions to the grant of a permit hereunder. (Ord. 1407 § 3)

17-10-3: PUBLIC PLACES - PERMITS REQUIRED

No person shall plant, set out, trim, spray, preserve or remove trees, bushes, shrubs or other plants in public places without first filing an application and procuring a permit from the City Manager or his designate. Any person granted a permit to cut down or trim a tree in a public place shall remove all the debris at his own expense.

- A. Application Data: The application required herein shall state such information as the City Manager or his designate shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.
- B. Standards for Issuance: The City Manager or his designate shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.
- C. Regulations for Planting in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof, and with the following regulations established for the planting, trimming and care of the trees in public places:
 - 1. Trees must not be less than one inch (1") in diameter of trunk one foot (1') above the ground.
 - 2. No tree shall be placed so as, in the opinion of the City Manager or his designate, to cause a traffic hazard.
 - 3. Tree Species: The City Forestry Division shall maintain a list of prohibited and a list of acceptable tree species to be used when planting trees in a public place. This list will consist of species currently deemed satisfactory by the City Manager or his designate. The City's Forestry Division will maintain both prohibited and approved tree lists for public places and make these lists readily available to the general public.
 - 4. No tree shall be planted where the clear space between the curb and the sidewalk is less than four (4) feet. Small Trees shall be planted a minimum 20' apart, Medium Trees a minimum 30' apart and large trees a minimum 40' apart except in special plantings designed by a Illinois Licensed Landscape Architect and approved by the City Manager or his designee.
 - 5. No tree shall be planted where the soil is too poor to ensure growth of such tree unless the owner excavates a suitable hole of not less than thirty six (36) cubic feet and replaces the material removed with suitable loam or top soil.

6. No tree, bush or shrub shall be planted nearer than four feet (4') from the curb line or the sidewalk unless a special permit is granted by the City Manager or his designate.
7. No tree, bush or shrub shall be planted or be allowed to remain untrimmed so as to be an obstruction to vision within a triangular space at a street or alley corner between the heights of three feet (3') and fifteen feet (15') above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting streets, or street and alley pavements; and the triangular space is determined by a diagonal line connecting two (2) points measured twenty five feet (25') equidistant from the meeting point of the edges of the travelled ways of the two (2) streets, or street and alley.
8. No medium or large tree varieties are allowed to be planted under overhead utility lines.
9. No Spiking: metal spurs of gaffs shall be used to climb live trees for any purpose other than tree removal or human rescue.
10. It shall be unlawful for any person to place rocks or debris between the trunk and the drip line of any tree in a public place.

D. Regulations for Removal in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof and with the following regulations established for the removal of trees, bushes and shrubs in a public place.

1. It shall be unlawful for any person to remove any tree on City right of way without written permission from the City manager or his designee.
2. Charge for removing trees. If any person removes any tree located on the City right-of-way, the person shall pay to the city an amount equal to the value of the tree. The value of the tree shall be determined in accordance with the most recent "Guide for Plant Appraisal," as published by the International Society of Arboriculture or its successor publication. This cost may be waived by the City Manager or his designate if it is determined the tree removal shall be in the best interest of the City.
3. Any dead tree located in a public place shall be completely removed, including the stump and any exposed roots. The City may require the replacement of trees removed from public places.

17-10-4: GROWING A TREE, BUSH, SHRUB OR PLANT ON OR NEAR PUBLIC PLACES

- A. Duties Of Owner: It shall be the duty of any person growing a tree, bush, shrub or plants within a public place , or responsible for trees, bushes, shrubs or plants growing on property abutting public places supporting trees, bushes, shrubs or plants, or on other private property:
1. To trim trees, bushes, shrubs or plants so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights, as so that the minimum clearance of any portion overhanging a public right-of-way or sidewalk shall be eight feet (8').
 2. To treat or remove any tree, bush, shrub or plant so diseased or insect-ridden to constitute a hazard to trees or plants in public places.
 3. To remove any tree or limb of a tree this has become likely to fall.
 4. To trim trees, bushes, shrubs, or plants so that they do not obstruct passage on any portion of any sidewalk.
 5. To allow to grow any vegetation, alternative vegetation, trees, bushes or shrubs which are otherwise prohibited by law, including but not limited to noxious weeds as prohibited by the Illinois Noxious Weed Law.
 6. Not to plant any tree, bush or shrub within four feet (4') of the public right-of-way line or sidewalk.
- B. Obstruction or Danger to Traffic or Passage: The City Manager or his designate may trim or remove any tree, bush, shrub, or plant so that the obstruction or danger to traffic or passage shall be done away with.

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

When the City Manager or his designate shall find it necessary to order the trimming, preservation or removal of trees, bushes, shrubs, or plants upon private property as authorized in Section 17-10-2 of this Chapter, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

- A. Method Of Service: The order required herein shall be served in one of the following ways:
1. By making personal delivery of the order to the person responsible.

2. By leaving the order with some person of suitable age and discretion upon the premises.
3. By affixing a copy of the order to the door at the entrance of the premises in violation.
4. By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.

- B. Time for Compliance: The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Manager or his designate shall have the authority to require compliance immediately upon service of the order.
- C. Appeal From Order: A person to whom an order hereunder is directed shall have the right, within twenty four (24) hours of the service of such order, to appeal to the City Council by filing written notice of such appeal to the City Manager. The City Council shall review such order and appeal at its next regularly scheduled meeting and render its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within the time directed after an appeal shall have been determined.
- D. Failure to Comply: When a person to whom an order is directed fails to comply within the specified time, the City Manager or his designate shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
- E. Notice Of Lien: If the cost of remedying a condition is not paid within thirty (30) days after receipt of a statement therefor from the City Manager or his designate, a notice of lien of the cost and expense thereof incurred shall be recorded in the following manner: the City shall file notice of lien in the office of the Recorder of Deeds, Jackson County, Illinois. Such notice of lien shall contain a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service and the date or dates when said costs and expense were incurred. Such notice shall be under oath and shall be filed within sixty (60) days after the costs and expenses are incurred. Such liens are assessed to recover the expenses incurred by the City and shall not serve as an exemption from any penalties imposed for the violation of this Chapter. (Ord. 1407 § 6)

17-10-6: ABUSE OR MUTILATION OF TREES, BUSHES, SHRUBS AND PLANTS

Except as authorized herein, no person shall:

- A. Damage or Remove Trees, Bushes, Shrubs or Plants: Damage, cut, carve, transplant or remove any tree or plant in a public place, or injure the bark;
- B. Pick Flowers or Seeds: Pick the flowers or seeds of any tree or plant in a public place;
- C. Attach Any Contrivance: Attach any rope, wire, sign, or other contrivance to any tree, bush, shrub or plant in a public place;
- D. Injure or Impair: Dig in or otherwise disturb grass areas, or in any way injure or impair the natural beauty or usefulness of any public place;
- E. Allow Contact With Harmful Substance or Electricity: Cause or permit any wire charged with electricity to come in contact with any tree, bush, shrub, or plant in a public place or allow any gaseous, liquid, or solid substance which is harmful to such trees or plants to come in contact with them. (Ord. 1407 § 7)
- F. Cause or allow the topping of any tree in the City of Carbondale. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions maybe exempted as authorized by the City Manager or his designate.
- G. Remove, allow, or cause to be removed any Heritage Tree without first obtaining a permit from the City Manager or his designate; said permit shall include the requirement to replant a comparable tree, as approved by the City Forestry Division, on the same property upon which the Heritage Tree was removed within 6 months of the Heritage Tree removal date. Replacement trees shall be minimum 1” diameter of trunk at 12” above the ground. Removal of multiple Heritage Trees shall require multiple replacement trees as determined appropriate by the City Manager or his designate.

17-10-7: TREE TRIMMER AND CUTTER LICENSE REQUIRED

It shall be unlawful for any person to act or operate as a tree trimmer and/or cutter within the corporate limits of the City of Carbondale without obtaining a license prior thereto. A license shall not be required of any public service utility company employee or City employee doing such work in the pursuit of their public service endeavors. However a license is required for any contractor or sub-contractor that is hired by any public service utility company or the City to perform tree trimming and/or cutting work. The City Clerk will maintain and make a list of licensed tree trimmers and cutters available to the general public.

- A. Application: Any person desiring to become a tree trimmer and cutter in the city of Carbondale shall apply to the City Clerk in writing for a license. At a minimum the

application shall state the name and address of the applicant; whether the applicant is an individual, partnership, firm or corporation; the number, make and style of vehicles to be used by the applicant in carrying on the business of tree trimmer and cutter; and copies of other required documentation and license fees as required herein.

B. License Period and Fee: The license period shall run from January 1st thru December 31st of each year. The annual fee for licensure shall be due on or before by December 1st of the preceding year and shall be \$50.00 annually. Applications for Licenses may be submitted and approved anytime during the license period; however license fees shall not be prorated. Persons initially applying for a license on or after September 1st of a given year shall not be required to pay an additional fee for the first year of licensure; this does not apply to license renewals.

C. Certification Requirement: All licensees shall possess a valid State of Illinois Emerald Ash Borer (EAB) Compliance Agreement signed and numbered by the Illinois Department of Agriculture.

D. Insurance Required:

No person shall be issued a license until the applicant furnishes the following insurance policies or certificates of insurance:

1. Public Liability Insurance in the sum of at least one hundred thousand dollars (\$100,000) for bodily injury to each person, three hundred thousand dollars (\$300,000) for bodily injury for each accident and one hundred thousand dollars (\$100,000) for property damage for each accident. Said insurance shall cover operations including the applicant's own direct work, work performed by subcontractors and automobiles and motor vehicles used in the business.
2. A certificate showing that the applicant's agents and employees are protected by worker's compensation insurance as required by law.

Such policy and/or certificate shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the City Clerk, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this section, said licensee shall also be automatically suspended until such insurance shall have been replaced and proper documentation provided to the City Clerk.

E. Vehicle License and Markings: As applicable all vehicles and equipment shall be properly licensed and inspected by the State of Illinois. All vehicles and equipment shall be clearly marked with the company name and telephone number.

F. Removal and Disposal of Debris: After completion of any work on public or private property, the licensee shall clean the work site and remove all wood and debris from the property and public rights-of-way. Licensees are responsible for the legal disposal

of all debris; debris resulting from the work of a licensed tree trimmer or cutter may not be left on private or public property for pickup and disposal by the City. Debris infected with the Emerald Ash Borer (EAB) must be disposed of according to the Illinois Department of Agriculture guidelines. At the written direction of the property owner, the Licensee may leave wood that is suitable for firewood; provided however that the property owner shall store such firewood as required elsewhere in this City Code.

- G. Written Estimated Required: A copy of a written estimate shall be provided to the property owner for approval prior to the performance of any work. This estimate shall include the name, address and phone number of the tree trimmer and cutter, a detailed description of all services or work to be performed and the total estimated cost of the services to be provided. In the event that a determination is made that the actual charges for the services will exceed the total written estimate by ten (10) percent or more, the customer shall be immediately notified, in writing, of the new charges. As customer so notified may authorize or cancel the service. The customer shall be responsible for payment of services provided; in no event shall a customer be required to pay more than the amount of the original written estimate plus ten (10) percent of the original written estimate if the customer did not receive written notification of a change in the estimate.
- H. Deposit: A tree trimmer and cutter may not require a deposit in excess of 50% of the written estimate for said work as outlined in section 17-10-7G.
- I. License Suspension or Revocation: The City Manager is authorized to suspend or revoke a tree trimmer and cutter license in conformity with the provisions of this section.
 - 1. No tree trimmer and cutter license shall be suspended or revoked until after an administrative hearing before the City Manager has been held. The licensee shall be given no less than five (5) days written notice of the hearing, said notice shall include the place and time of the hearing.
 - 2. The City Manager may after notice of hearing suspend or revoke a tree trimmer and cutter license for any of the following reasons:
 - a. The licensee has violated any state or federal laws or City ordinances regulating or relating to the tree servicing business.
 - b. The willful making of any false statement as to a material fact in the license application or renewal.
 - c. Suspension or revocation of the legal status of the licensee such as the right to transact business in the State of Illinois.
 - d. Failure to pay any fees or taxes due the City of Carbondale.

J. Exemptions: No license shall be required for:

- a. The minor pruning of bushes, shrubs, or ornamental trees incidental to performing lawn maintenance and/or landscaping on private property.
- b. Removal or trimming and cutting of trees on private property that are less than 12" DBH.
- c. Pruning, trimming, and cutting of branches that do not require the use of a mechanical lift, bucket truck, climbing and roping, or other similar equipment or operation.

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

Under the direction of the City Manager or his Designee the City shall encourage the planting of shade trees within the front yards of streets where the boulevard area between the street and sidewalk is not sufficient to properly sustain shade tree growth. This shall be accomplished by entering into an agreement with the property owner for the planting and maintenance of said trees; at a minimum the agreement shall have the following conditions:

- A. A private property owner shall apply to the City to participate in this program.
- B. Upon the concurrence of the City Manager or his designee that a need for shade trees exists on the subject property; a formal written agreement between the City and property owner shall be entered into.
- C. In consultation with the property owner, the City Forestry Division shall determine the specific variety of shade tree to be planted.
- D. The maximum distance a tree can be planted shall be fifteen (15) feet from the street right-of-way line.
- E. The property owner shall grant the City permission to enter onto their private property and shall indemnify the City from any damages that may be caused during the tree planting process.
- F. The City will purchase and plant the agreed upon shade tree for the property owner.
- G. Trees will only be planted during the fall and spring planting seasons as determined appropriate by the City Forestry Division.

- H. The property owner shall reimburse the City for the actual cost of the tree and planting materials, not to exceed one hundred dollars (\$100) per tree. The cost of labor and equipment shall be the responsibility of the City.
- I. The City shall provide the property owner with directions on how to properly water, care for, and maintain the tree. Newly planted trees require proper care, including watering, mulching and fertilizing for at least three (3) years.
- J. The property shall be responsible for all future maintenance and upkeep of the tree and agrees to insure that the tree receives proper care and watering for the first three (3) years.
- K. The property owner agrees to not cause the removal of any tree planted under this program without first obtaining the written approval of the City Manager or his designee.
- L. The City reserves the right to limit the number of shade trees that can be planted in any season and agrees to maintain and keep a list of applications on file based on a first come first served basis.
- M. Should the property upon which a tree was planted change ownership during the first three (3) years after the tree was planted; the seller and/or seller's agent shall inform the buyer of the requirements and conditions set forth herein.

17-10-9: PENALTY

Any person violating any of the provisions of this Chapter shall be subject to a fine in an amount not less than two hundred fifty dollars (\$250) and not more than seven hundred fifty dollars (\$750.00). Each occurrence shall constitute a separate offence and shall be punishable as such hereunder. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 1407 § 8; Ord. 97-166; 1998 Code)

Chapter 10 TREES, BUSHES AND SHRUBS

17-10-1: DEFINITIONS

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

17-10-3: **PUBLIC PLACES** - PERMITS REQUIRED

17-10-4: GROWING A TREE, **BUSH, SHRUB OR PLANT** ON OR NEAR PUBLIC **PROPERTY PLACES**

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

17-10-6: ABUSE OR MUTILATION OF TREES, **BUSHES, SHRUBS OR PLANTS**

17-10-7: PENALTY: TREE TRIMMER AND CUTTER LICENSE REQUIRED

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

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SHRUB: A woody perennial plant smaller than a tree with several main perennial stems arising at or near the ground.

TOPPING: The severe cutting back of limbs to stubs larger than 3" in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TREE: A wood plant having one erect perennial stem (trunk) at least 3” in diameter with a mature height of at least 13 feet planted A tree in a public or private place, except where otherwise indicated. (Ord. 1407 § 2)

TREE SIZES (ORNAMENTAL, SMALL, MEDIUM, AND LARGE): Ornamental trees have an ultimate height of less than 20 feet. Small trees have an ultimate height of 20 to 30 feet or a 15 to 25 foot spread; medium trees have an ultimate height of 30 to 50 feet or a 30 to 40 foot spread; large trees have an ultimate height of greater than 50 feet or over a 40 foot spread.

TRIMMER AND CUTTER: A tree trimmer and cutter means any person who for a fee engages in any manner in pruning, trimming, cutting, bracing or removal of trees whether the trees in question are diseased or not diseased.

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

The City Manager or his designate shall have exclusive jurisdiction and supervision over all trees, bushes, shrubs or other plants, and grassy areas planted or growing in public places.

- A. Preserve or Remove: The City Manager or his designate shall have the authority, and it shall be his duty, to plant, trim, spray, preserve and remove trees, bushes, shrubs or other plants and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.
- B. Order to Preserve or Remove: The City Manager or his designate shall have the authority, and it shall be his duty, to order the trimming, preservation or removal of trees, bushes, shrubs or plants upon private property when he shall find such action is necessary to insure public safety or to prevent the spread of disease or insects to trees, bushes, shrubs or plants in public places or on privately owned land. trees and places.
- C. Supervision: The City Manager or his designate shall have the authority, and it shall be his duty, to supervise all work done under a permit issued in accordance with the terms of this Chapter.
- D. Uniform Plan: It shall be the public policy of the City to plant trees in accordance with a uniform plan to be determined by the City Manager or his designate along rights of way of all new or reconstructed streets, and where other public improvements cause trees to be removed. (Ord. 78-18)
- E. Issue Conditional Permit: The City Manager or his designate shall have the authority to affix reasonable conditions to the grant of a permit hereunder. (Ord. 1407 § 3)

17-10-3: **PUBLIC PLACES** - PERMITS REQUIRED

No person shall plant, set out, trim, spray, preserve or remove trees, **bushes, shrubs** or other plants in public places without first filing an application and procuring a permit from the City Manager or his designate. Any person granted a permit to cut down or trim a tree in a public place shall remove all the debris at his own expense.

A. Application Data: The application required herein shall state such information as the City Manager or his designate shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.

B. Standards for Issuance: The City Manager or his designate shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.

C. Regulations for Planting in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof, and with the following regulations established for the planting, trimming and care of the trees in public places:

1. Trees must not be less than one inch (1") in diameter of trunk one foot (1') above the ground.

~~2. All trees from one inch (1") to three inches (3") in diameter of trunk one foot (1') above the ground must be protected and supported by tree guards.~~

~~3. No tree shall be placed so as, in the opinion of the City Manager or his designate, to cause a traffic hazard.~~

~~4. In felling trees, the same must be removed with the root stump grubbed out when so required by the City Manager or his designate.~~

~~5. All cuts above one inch (1") in diameter must be waterproofed.~~

~~6. Tree Species: The City Forestry Division shall maintain a list of **prohibited and a list of** acceptable tree species to be used when planting trees in a public place. This list will consist of species currently deemed satisfactory by the City Manager or his designate. **The City's Forestry Division will maintain both prohibited and approved tree lists for public places and make these lists readily available to the general public.** Trees shall be planted at least thirty feet (30') apart except where a special permit is obtained from the City Manager or his designate.~~

~~7. No tree shall be planted where the clear space between the curb and the sidewalk is less than **four (4) feet, three feet (3')**. **Small Trees shall be planted a minimum 20' apart, Medium Trees a minimum 30' apart and large trees a**~~

minimum 40' apart except in special plantings designed by a Illinois Licensed Landscape Architect and approved by the City Manager or his designee.

85. No tree shall be planted where the soil is too poor to ensure growth of such tree unless the owner excavates a suitable hole of not less than thirty six (36) cubic feet and replaces the material removed with suitable loam or top soil.

96. No tree, **bush** or shrub shall be planted nearer than **four feet (4')** ~~one foot (1')~~ from the curb line or the sidewalk unless a special permit is granted by the City Manager or his designate.

107. No tree, bush or shrub shall be planted or be allowed to remain untrimmed so as to be an obstruction to vision within a triangular space at a street or alley corner between the heights of three feet (3') and fifteen feet (15') above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting streets, or street and alley pavements; and the triangular space is determined by a diagonal line connecting two (2) points measured twenty five feet (25') equidistant from the meeting point of the edges of the travelled ways of the two (2) streets, or street and alley.

~~11. No tree shall be planted on any public way except of the variety selected by the City Manager or his designate for that street. (1956 Code Ch. 28 § 28-17; Ord. 1407 § 4)~~

8. No medium or large tree varieties are allowed to be planted under overhead utility lines.

9. No Spiking: metal spurs of gaffs shall be used to climb live trees for any purpose other than tree removal or human rescue.

10. It shall be unlawful for any person to place rocks or debris between the trunk and the drip line of any tree **in a public place.**

D. Regulations for Removal in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof and with the following regulations established for the removal of trees, bushes and shrubs in a public place.

1. It shall be unlawful for any person to remove any tree on City right of way without written permission from the City manager or his designee.

2. Charge for removing trees. If any person removes any tree located on the City right-of-way, the person shall pay to the city an amount equal to the value of the tree. The value of the tree shall be determined in accordance with the most recent "Guide for Plant Appraisal," as published by the International Society of Arboriculture or its successor publication. This cost may be waived by the

City Manager or his designate if it is determined the tree removal shall be in the best interest of the City.

3. Any dead tree located in a public place shall be completely removed, including the stump and any exposed roots. The City may require the replacement of trees removed from public places.

17-10-4: GROWING A TREE, BUSH, SHRUB OR PLANT ON OR NEAR PUBLIC PROPERTY PLACES

A. Duties Of Owner: It shall be the duty of any person growing a tree, bush, shrub or plants within a public place highway, or responsible for trees, bushes, shrubs or plants growing on property abutting ~~on~~ public places supporting trees, bushes, shrubs or plants, or on other private property:

- To trim his trees, bushes, shrubs or plants so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights, as so that the minimum clearance of any portion overhanging a public right-of-way or sidewalk shall be eight feet (8').
- To treat or remove any tree, bush, shrub or plant so diseased or insect-ridden to constitute a hazard to trees or plants in public places.
- To remove any tree or limb of a tree this has become likely to fall.
- To trim trees, bushes, and shrubs, or plants so that they do not obstruct passage on any portion of any sidewalk. (~~Ord. 1407 § 5; 1998 Code~~)
- To allow to grow any vegetation, alternative vegetation, trees, bushes or shrubs which are otherwise prohibited by law, including but not limited to noxious weeds as prohibited by the Illinois Noxious Weed Law.
- Not to plant any tree, bush or shrub within four feet (4') of the public right-of-way line or sidewalk.

B. Obstruction or Danger to Traffic or Passage: The City Manager or his designate may trim or remove any tree, bush, or shrub, or plant so that the obstruction or danger to traffic or passage shall be done away with. (~~Ord. 1407 § 5~~)

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

When the City Manager or his designate shall find it necessary to order the trimming, preservation or removal of trees, bushes, shrubs, or plants upon private property as authorized in

Section 17-10-2 of this Chapter, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

- A. Method Of Service: The order required herein shall be served in one of the following ways:
1. By making personal delivery of the order to the person responsible.
 2. By leaving the order with some person of suitable age and discretion upon the premises.
 3. By affixing a copy of the order to the door at the entrance of the premises in violation.
 4. By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.
- B. Time for Compliance: The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Manager or his designate shall have the authority to require compliance immediately upon service of the order.
- C. Appeal From Order: A person to whom an order hereunder is directed shall have the right, within twenty four (24) hours of the service of such order, to appeal to the City Council by filing written notice of such appeal to the City Manager. The City Council shall review such order and appeal at its next regularly scheduled meeting and render its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within the time directed after an appeal shall have been determined.
- D. Failure to Comply: When a person to whom an order is directed fails to comply within the specified time, the City Manager or his designate shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
- E. Notice Of Lien: If the cost of remedying a condition is not paid within thirty (30) days after receipt of a statement therefor from the City Manager or his designate, a notice of lien of the cost and expense thereof incurred shall be recorded in the following manner: the City shall file notice of lien in the office of the Recorder of Deeds, Jackson County, Illinois. Such notice of lien shall contain a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service and the date or dates when said costs and expense were incurred. Such notice shall be under oath and shall be filed within sixty (60) days after the costs and expenses are incurred. Such liens are assessed to

recover the expenses incurred by the City and shall not serve as an exemption from any penalties imposed for the violation of this Chapter. (Ord. 1407 § 6)

17-10-6: ABUSE OR MUTILATION OF TREES, BUSHES, SHRUBS AND PLANTS

Except as authorized herein, no person shall:

- A. Damage or Remove Tree, Bushes, Shrubs or Plants: Damage, cut, carve, transplant or remove any tree or plant in a public place, or injure the bark;
- B. Pick Flowers or Seeds: Pick the flowers or seeds of any tree or plant in a public place;
- C. Attach Any Contrivance: Attach any rope, wire, sign, or other contrivance to any tree, bush, shrub or plant in a public place;
- D. Injure or Impair: Dig in or otherwise disturb grass areas, or in any way injure or impair the natural beauty or usefulness of any public place;
- E. Allow Contact With Harmful Substance or Electricity: Cause or permit any wire charged with electricity to come in contact with any tree, bush, shrub, or plant in a public place or allow any gaseous, liquid, or solid substance which is harmful to such trees or plants to come in contact with them. (Ord. 1407 § 7)
- F. Cause or allow the topping of any tree in the City of Carbondale. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions maybe exempted as authorized by the City Manager or his designate.
- G. Remove, allow, or cause to be removed any Heritage Tree without first obtaining a permit from the City Manager or his designate; said permit shall include the requirement to replant a comparable tree, as approved by the City Forestry Division, on the same property upon which the Heritage Tree was removed within 6 months of the Heritage Tree removal date. Replacement trees shall be minimum 1" diameter of trunk at 12" above the ground. Removal of multiple Heritage Trees shall require multiple replacement trees as determined appropriate by the City Manager or his designate.

17-10-7: TREE TRIMMER AND CUTTER LICENSE REQUIRED

It shall be unlawful for any person to act or operate as a tree trimmer and/or cutter within the corporate limits of the City of Carbondale without obtaining a license prior thereto. A license shall not be required of any public service utility company employee or City employee doing such work in the pursuit of their public service endeavors. However a license is required for any contractor or sub-contractor that is hired by any public service utility company or the City to

perform tree trimming and/or cutting work. The City Clerk will maintain and make a list of licensed tree trimmers and cutters available to the general public.

A. Application: Any person desiring to become a tree trimmer and cutter in the city of Carbondale shall apply to the City Clerk in writing for a license. At a minimum the application shall state the name and address of the applicant; whether the applicant is an individual, partnership, firm or corporation; the number, make and style of vehicles to be used by the applicant in carrying on the business of tree trimmer and cutter; and copies of other required documentation and license fees as required herein.

B. License Period and Fee: The license period shall run from January 1st thru December 31st of each year. The annual fee for licensure shall be due on or before by December 1st of the preceding year and shall be \$50.00 annually. Applications for Licenses may be submitted and approved anytime during the license period; however license fees shall not be prorated. Persons initially applying for a license on or after September 1st of a given year shall not be required to pay an additional fee for the first year of licensure; this does not apply to license renewals.

C. Certification Requirement: All licensees shall possess a valid State of Illinois Emerald Ash Borer (EAB) Compliance Agreement signed and numbered by the Illinois Department of Agriculture.

D. Insurance Required:

No person shall be issued a license until the applicant furnishes the following insurance policies or certificates of insurance:

1. Public Liability Insurance in the sum of at least one hundred thousand dollars (\$100,000) for bodily injury to each person, three hundred thousand dollars (\$300,000) for bodily injury for each accident and one hundred thousand dollars (\$100,000) for property damage for each accident. Said insurance shall cover operations including the applicant's own direct work, work performed by subcontractors and automobiles and motor vehicles used in the business.
2. A certificate showing that the applicant's agents and employees are protected by worker's compensation insurance as required by law.

Such policy and/or certificate shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the City Clerk, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this section, said licensee shall also be automatically suspended until such insurance shall have been replaced and proper documentation provided to the City Clerk.

- E. Vehicle License and Markings: As applicable all vehicles and equipment shall be properly licensed and inspected by the State of Illinois. All vehicles and equipment shall be clearly marked with the company name and telephone number.
- F. Removal and Disposal of Debris: After completion of any work on public or private property, the licensee shall clean the work site and remove all wood and debris from the property and public rights-of-way. Licensees are responsible for the legal disposal of all debris; debris resulting from the work of a licensed tree trimmer or cutter may not be left on private or public property for pickup and disposal by the City. Debris infected with the Emerald Ash Borer (EAB) must be disposed of according to the Illinois Department of Agriculture guidelines. At the written direction of the property owner, the Licensee may leave wood that is suitable for firewood; provided however that the property owner shall store such firewood as required elsewhere in this City Code.
- G. Written Estimated Required: A copy of a written estimate shall be provided to the property owner for approval prior to the performance of any work. This estimate shall include the name, address and phone number of the tree trimmer and cutter, a detailed description of all services or work to be performed and the total estimated cost of the services to be provided. In the event that a determination is made that the actual charges for the services will exceed the total written estimate by ten (10) percent or more, the customer shall be immediately notified, in writing, of the new charges. As customer so notified may authorize or cancel the service. The customer shall be responsible for payment of services provided; in no event shall a customer be required to pay more than the amount of the original written estimate plus ten (10) percent of the original written estimate if the customer did not receive written notification of a change in the estimate.
- H. Deposit: A tree trimmer and cutter may not require a deposit in excess of 50% of the written estimate for said work as outlined in section 17-10-7G.
- I. License Suspension or Revocation: The City Manager is authorized to suspend or revoke a tree trimmer and cutter license in conformity with the provisions of this section.
1. No tree trimmer and cutter license shall be suspended or revoked until after an administrative hearing before the City Manager has been held. The licensee shall be given no less than five (5) days written notice of the hearing, said notice shall include the place and time of the hearing.
 2. The City Manager may after notice of hearing suspend or revoke a tree trimmer and cutter license for any of the following reasons:
 - a. The licensee has violated any state or federal laws or City ordinances regulating or relating to the tree servicing business.

- b. The willful making of any false statement as to a material fact in the license application or renewal.
- c. Suspension or revocation of the legal statuses of the licensee such as the right to transact business in the State of Illinois.
- d. Failure to pay any fees or taxes due the City of Carbondale.

J. Exemptions: No license shall be required for:

- a. The minor pruning of bushes, shrubs, or ornamental trees incidental to performing lawn maintenance and/or landscaping on private property.
- b. Removal or trimming and cutting of trees on private property that are less than 12" DBH.
- c. Pruning, trimming, and cutting of branches that do not require the use of a mechanical lift, bucket truck, climbing and roping, or other similar equipment or operation.

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

Under the direction of the City Manager or his Designee the City shall encourage the planting of shade trees within the front yards of streets where the boulevard area between the street and sidewalk is not sufficient to properly sustain shade tree growth. This shall be accomplished by entering into an agreement with the property owner for the planting and maintenance of said trees; at a minimum the agreement shall have the following conditions:

- A. A private property owner shall apply to the City to participate in this program.
- B. Upon the concurrence of the City Manager or his designee that a need for shade trees exists on the subject property; a formal written agreement between the City and property owner shall be entered into.
- C. In consultation with the property owner, the City Forestry Division shall determine the specific variety of shade tree to be planted.
- D. The maximum distance a tree can be planted shall be fifteen (15) feet from the street right-of-way line.
- E. The property owner shall grant the City permission to enter onto their private property and shall indemnify the City from any damages that may be caused during the tree planting process.
- F. The City will purchase and plant the agreed upon shade tree for the property owner.

- G. Trees will only be planted during the fall and spring planting seasons as determined appropriate by the City Forestry Division.
- H. The property owner shall reimburse the City for the actual cost of the tree and planting materials, not to exceed one hundred dollars (\$100) per tree. The cost of labor and equipment shall be the responsibility of the City.
- I. The City shall provide the property owner with directions on how to properly water, care for, and maintain the tree. Newly planted trees require proper care, including watering, mulching and fertilizing for at least three (3) years.
- J. The property shall be responsible for all future maintenance and upkeep of the tree and agrees to insure that the tree receives proper care and watering for the first three (3) years.
- K. The property owner agrees to not cause the removal of any tree planted under this program without first obtaining the written approval of the City Manager or his designee.
- L. The City reserves the right to limit the number of shade trees that can be planted in any season and agrees to maintain and keep a list of applications on file based on a first come first served basis.
- M. Should the property upon which a tree was planted change ownership during the first three (3) years after the tree was planted; the seller and/or sellers agent shall inform the buyer of the requirements and conditions set forth herein.

17-10-717-10-9: PENALTY

Any person violating any of the provisions of this Chapter shall be subject to a fine in an amount not less than ~~ten dollars (\$10.00)~~ two hundred fifty dollars (\$250) and not more than seven hundred fifty dollars (\$750.00). Each occurrence shall constitute a separate offence and shall be punishable as such hereunder. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 1407 § 8; Ord. 97-166; 1998 Code)

Chapter 10 TREES, BUSHES AND SHRUBS

17-10-1: DEFINITIONS

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

17-10-3: PUBLIC PLACES - PERMITS REQUIRED

17-10-4: GROWING A TREE, BUSH, SHRUB OR PLANT ~~ON OR NEAR PUBLIC PLACES~~

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

17-10-6: ABUSE OR MUTILATION OF TREES, BUSHES, SHRUBS OR PLANTS

17-10-7: TREE TRIMMER AND CUTTER LICENSE REQUIRED

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

17-10-9: EXEMPTIONS

17-10-~~9~~10: PENALTY

17-10-1: DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BUSH: A low densely branched shrub.

DIAMETER BREAST HEIGHT (DBH): The diameter of a tree measured at 54 inches above the ground.

HERITAGE TREE: Any tree having an 18" or larger DBH.

PERSON: A person, firm, partnership, association, corporation, company, or organization of any kind.

PLANT: a living organism of the kind exemplified by trees, shrubs, herbs, grasses, ferns, and mosses, typically growing in a permanent site, absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis.

PUBLIC PLACE: Public street right-of-way and City owned land or property.

SHRUB: A woody perennial plant smaller than a tree with several main perennial stems arising at or near the ground.

TOPPING: The severe cutting back of limbs to stubs larger than 3" in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TREE: A wood plant having one erect perennial stem (trunk) at least 3” in diameter with a mature height of at least 13 feet planted in a public or private place, except where otherwise indicated.

TREE SIZES (ORNAMENTAL, SMALL, MEDIUM, AND LARGE): Ornamental trees have an ultimate height of less than 20 feet. Small trees have an ultimate height of 20 to 30 feet or a 15 to 25 foot spread; medium trees have an ultimate height of 30 to 50 feet or a 30 to 40 foot spread; large trees have an ultimate height of greater than 50 feet or over a 40 foot spread.

TRIMMER AND CUTTER: A tree trimmer and cutter means any person who for a fee engages in any manner in pruning, trimming, cutting, bracing or removal of trees whether the trees in question are diseased or not diseased.

17-10-2: AUTHORITY OF CITY MANAGER OR HIS DESIGNATE

The City Manager or his designate shall have exclusive jurisdiction and supervision over all trees, bushes, shrubs or other plants, and grassy areas planted or growing in public places.

- A. **Preserve or Remove:** The City Manager or his designate shall have the authority, and it shall be his duty, to plant, trim, spray, preserve and remove trees, bushes, shrubs or other plants and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.
- B. **Order to Preserve or Remove:** The City Manager or his designate shall have the authority, and it shall be his duty, to order the trimming, preservation or removal of trees, bushes, shrubs or plants upon private property when he shall find such action is necessary to protect historic significance, protect heritage trees, insure public safety or to prevent the spread of disease or insects to trees, bushes, shrubs or plants in public places or on privately owned land.
- C. **Supervision:** The City Manager or his designate shall have the authority, and it shall be his duty, to supervise all work done under a permit issued in accordance with the terms of this Chapter.
- D. **Uniform Plan:** It shall be the public policy of the City to plant trees in accordance with a uniform plan to be determined by the City Manager or his designate along rights of way of all new or reconstructed streets, and where other public improvements cause trees to be removed. (Ord. 78-18)
- E. **Issue Conditional Permit:** The City Manager or his designate shall have the authority to affix reasonable conditions to the grant of a permit hereunder. (Ord. 1407 § 3)

17-10-3: PUBLIC PLACES - PERMITS REQUIRED

No person shall plant, set out, trim, spray, preserve or remove trees, bushes, shrubs or other plants in public places without first filing an application and procuring a permit from the City Manager or his designate. Any person granted a permit to cut down or trim a tree in a public place shall remove all the debris at his own expense.

- A. Application Data: The application required herein shall state such information as the City Manager or his designate shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.
- B. Standards for Issuance: The City Manager or his designate shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.
- C. Regulations for Planting in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof, and with the following regulations established for the planting, trimming and care of the trees in public places:
 - 1. Trees must not be less than one inch (1") in diameter of trunk one foot (1') above the ground.
 - 2. No tree shall be placed so as, in the opinion of the City Manager or his designate, to cause a traffic hazard.
 - 3. Tree Species: The City Forestry Division shall maintain a list of prohibited and a list of acceptable tree species to be used when planting trees in a public place. This list will consist of species currently deemed satisfactory by the City Manager or his designate. The City's Forestry Division will maintain both prohibited and approved tree lists for public places and make these lists readily available to the general public.
 - 4. No tree shall be planted where the clear space between the curb and the sidewalk is less than four (4) feet. Small Trees shall be planted a minimum 20' apart, Medium Trees a minimum 30' apart and large trees a minimum 40' apart except in special plantings designed by a Illinois Licensed Landscape Architect and approved by the City Manager or his designee.
 - 5. No tree shall be planted where the soil is too poor to ensure growth of such tree unless the owner excavates a suitable hole of not less than thirty six (36) cubic feet and replaces the material removed with suitable loam or top soil.

6. No tree, bush or shrub shall be planted nearer than four feet (4') from the curb line or the sidewalk unless a special permit is granted by the City Manager or his designate.
7. No tree, bush or shrub shall be planted or be allowed to remain untrimmed so as to be an obstruction to vision within a triangular space at a street or alley corner between the heights of three feet (3') and fifteen feet (15') above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting streets, or street and alley pavements; and the triangular space is determined by a diagonal line connecting two (2) points measured twenty five feet (25') equidistant from the meeting point of the edges of the travelled ways of the two (2) streets, or street and alley.
8. No medium or large tree varieties are allowed to be planted under overhead utility lines.
9. No Spiking: metal spurs of gaffs shall be used to climb live trees for any purpose other than tree removal or human rescue.
10. It shall be unlawful for any person to place rocks or debris between the trunk and the drip line of any tree in a public place.

D. Regulations for Removal in a Public Place: Work done under a permit issued hereunder shall be performed in strict accordance with the terms hereof and with the following regulations established for the removal of trees, bushes and shrubs in a public place.

1. It shall be unlawful for any person to remove any tree on City right of way without written permission from the City manager or his designee.
2. Charge for removing trees. If any person removes any tree located on the City right-of-way, the person shall pay to the city an amount equal to the value of the tree. The value of the tree shall be determined in accordance with the most recent "Guide for Plant Appraisal," as published by the International Society of Arboriculture or its successor publication. This cost may be waived by the City Manager or his designate if it is determined the tree removal shall be in the best interest of the City.
3. Any dead tree located in a public place shall be completely removed, including the stump and any exposed roots. The City may require the replacement of trees removed from public places.

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17-10-4: GROWING A TREE, BUSH, SHRUB OR PLANT ~~ON OR NEAR PUBLIC PLACES~~

A. Duties Of Owner: It shall be the duty of any person growing a tree, bush, shrub or plants within a public place , or responsible for trees, bushes, shrubs or plants growing on property abutting public places supporting trees, bushes, shrubs or plants, or on other private property:

1. To trim trees, bushes, shrubs or plants so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights, as so that the minimum clearance of any portion overhanging a public right-of-way or sidewalk shall be eight feet (8').
2. To treat or remove any tree, bush, shrub or plant so diseased or insect-ridden to constitute a hazard to trees or plants in public places.
3. To remove any tree or limb of a tree ~~this~~that has become likely to fall.
4. To trim trees, bushes, shrubs, or plants so that they do not obstruct passage on any portion of any sidewalk.
5. ~~To~~ Not To allow to grow any vegetation, alternative vegetation, trees, bushes or shrubs which are otherwise prohibited by law, including but not limited to noxious weeds as prohibited by the Illinois Noxious Weed Law.
6. Not to plant any tree, bush or shrub within four feet (4') of the public right-of-way line or sidewalk.

B. Obstruction or Danger to Traffic or Passage: The City Manager or his designate may trim or remove any tree, bush, shrub, or plant so that the obstruction or danger to traffic or passage shall be done away with.

17-10-5: PROCEDURE UPON ORDER TO PRESERVE OR REMOVE

When the City Manager or his designate shall find it necessary to order the trimming, preservation or removal of trees, bushes, shrubs, or plants upon private property as authorized in Section 17-10-2 of this Chapter, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

A. Method Of Service: The order required herein shall be served in one of the following ways:

1. By making personal delivery of the order to the person responsible.

2. By leaving the order with some person of suitable age and discretion upon the premises.
 3. By affixing a copy of the order to the door at the entrance of the premises in violation.
 4. By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.
- B. Time for Compliance: The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Manager or his designate shall have the authority to require compliance immediately upon service of the order.
- C. Appeal From Order: A person to whom an order hereunder is directed shall have the right, within twenty four (24) hours of the service of such order, to appeal to the City Council by filing written notice of such appeal to the City Manager. The City Council shall review such order and appeal at its next regularly scheduled meeting and render its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within the time directed after an appeal shall have been determined.
- D. Failure to Comply: When a person to whom an order is directed fails to comply within the specified time, the City Manager or his designate shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
- E. Notice Of Lien: If the cost of remedying a condition is not paid within thirty (30) days after receipt of a statement therefor from the City Manager or his designate, a notice of lien of the cost and expense thereof incurred shall be recorded in the following manner: the City shall file notice of lien in the office of the Recorder of Deeds, Jackson County, Illinois. Such notice of lien shall contain a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service and the date or dates when said costs and expense were incurred. Such notice shall be under oath and shall be filed within sixty (60) days after the costs and expenses are incurred. Such liens are assessed to recover the expenses incurred by the City and shall not serve as an exemption from any penalties imposed for the violation of this Chapter. (Ord. 1407 § 6)

17-10-6: ABUSE OR MUTILATION OF TREES, BUSHES, SHRUBS AND PLANTS

Except as authorized herein, no person shall:

- A. Damage or Remove Trees, Bushes, Shrubs or Plants: Damage, cut, carve, transplant or remove any tree or plant in a public place, or injure the bark;
- B. Pick Flowers or Seeds: Pick the flowers or seeds of any tree or plant in a public place;
- C. Attach Any Contrivance: Attach any rope, wire, sign, or other contrivance to any tree, bush, shrub or plant in a public place;
- D. Injure or Impair: Dig in or otherwise disturb grass areas, or in any way injure or impair the natural beauty or usefulness of any public place;
- E. Allow Contact With Harmful Substance or Electricity: Cause or permit any wire charged with electricity to come in contact with any tree, bush, shrub, or plant in a public place or allow any gaseous, liquid, or solid substance which is harmful to such trees or plants to come in contact with them. (Ord. 1407 § 7)
- F. Cause or allow the topping of any tree in the City of Carbondale. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions may be exempted as authorized by the City Manager or his designate.
- G. Except as provided in Article 17-10-9, remove, allow, or cause to be removed any Heritage Tree without first obtaining a permit from the City Manager or his designate; said permit shall include the requirement to replant an appropriate replacement-comparable tree, as approved by the City Forestry Division, on the same property upon which the Heritage Tree was removed within 6 months of the Heritage Tree removal date. Replacement trees shall be minimum 1” diameter of trunk at 12” above the ground and shall be a shade/canopy tree variety. Removal of multiple Heritage Trees shall require multiple replacement trees as determined appropriate by the City Manager or his designate.

17-10-7: TREE TRIMMER AND CUTTER LICENSE REQUIRED

Except as provided in Article 17-10-9, it shall be unlawful for any person to act or operate as a tree trimmer and/or cutter within the corporate limits of the City of Carbondale without obtaining a license prior thereto. A license shall not be required of any public service utility company employee or City employee doing such work in the pursuit of their public service endeavors. However a license is required for any contractor or sub-contractor that is hired by any public service utility company or the City to perform tree trimming and/or cutting work. The City Clerk will maintain and make a list of licensed tree trimmers and cutters available to the general public.

- A. Application: Any person desiring to become a tree trimmer and cutter in the city of Carbondale shall apply to the City Clerk in writing for a license. At a minimum the application shall state the name and address of the applicant; whether the applicant is an individual, partnership, firm or corporation; the number, make and style of

vehicles to be used by the applicant in carrying on the business of tree trimmer and cutter; and copies of other required documentation and license fees as required herein.

- B. License Period and Fee: The license period shall run from January 1st thru December 31st of each year. The annual fee for licensure shall be due on or before by December 1st of the preceding year and shall be \$50.00 annually. Applications for Licenses may be submitted and approved anytime during the license period; however license fees shall not be prorated. Persons initially applying for a license on or after September 1st of a given year shall not be required to pay an additional fee for the first year of licensure; this does not apply to license renewals.
- C. Certification Requirement: All licensees shall possess a valid State of Illinois Emerald Ash Borer (EAB) Compliance Agreement signed and numbered by the Illinois Department of Agriculture.
- D. Insurance Required:

No person shall be issued a license until the applicant furnishes the following insurance policies or certificates of insurance:

1. Public Liability Insurance in the sum of at least one hundred thousand dollars (\$100,000) for bodily injury to each person, three hundred thousand dollars (\$300,000) for bodily injury for each accident and one hundred thousand dollars (\$100,000) for property damage for each accident. Said insurance shall cover operations including the applicant's own direct work, work performed by subcontractors and automobiles and motor vehicles used in the business.
2. A certificate showing that the applicant's agents and employees are protected by worker's compensation insurance as required by law.

Such policy and/or certificate shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the City Clerk, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this section, said licensee shall also be automatically suspended until such insurance shall have been replaced and proper documentation provided to the City Clerk.

- E. Vehicle License and Markings: As applicable all vehicles and equipment shall be properly licensed and inspected by the State of Illinois. All vehicles and equipment shall be clearly marked with the company name and telephone number.
- F. Removal and Disposal of Debris: After completion of any work on public or private property, the licensee shall clean the work site and remove all wood and debris from the property and public rights-of-way. Licensees are responsible for the legal disposal of all debris; debris resulting from the work of a licensed tree trimmer or cutter may not be left on private or public property for pickup and disposal by the City. Debris

infected with the Emerald Ash Borer (EAB) must be disposed of according to the Illinois Department of Agriculture guidelines. At the written direction of the property owner, the Licensee may leave wood that is suitable for firewood; provided however that the property owner shall store such firewood as required elsewhere in this City Code.

- G. Written Estimate Required: A copy of a written estimate shall be provided to the property owner for approval prior to the performance of any work. This estimate shall include the name, address and phone number of the tree trimmer and cutter, a detailed description of all services or work to be performed and the total estimated cost of the services to be provided. In the event that a determination is made that the actual charges for the services will exceed the total written estimate by ten (10) percent or more, the customer shall be immediately notified, in writing, of the new charges. A customer so notified may authorize or cancel the service. The customer shall be responsible for payment of services provided; in no event shall a customer be required to pay more than the amount of the original written estimate plus ten (10) percent of the original written estimate if the customer did not receive written notification of a change in the estimate.
- H. Deposit: A tree trimmer and cutter may not require a deposit in excess of 50% of the written estimate for said work as outlined in section 17-10-7G.
- I. License Suspension or Revocation: The City Manager is authorized to suspend or revoke a tree trimmer and cutter license in conformity with the provisions of this section.
 - 1. No tree trimmer and cutter license shall be suspended or revoked until after an administrative hearing before the City Manager has been held. The licensee shall be given no less than five (5) days written notice of the hearing, said notice shall include the place and time of the hearing.
 - 2. The City Manager may after notice of hearing suspend or revoke a tree trimmer and cutter license for any of the following reasons:
 - a. The licensee has violated any state ~~or~~ federal laws or City ordinances regulating or relating to the tree servicing business.
 - b. The willful making of any false statement as to a material fact in the license application or renewal.
 - c. Suspension or revocation of the legal status of the licensee such as the right to transact business in the State of Illinois.
 - d. Failure to pay any fees or taxes due the City of Carbondale.

~~J. Exemptions: No license shall be required for:~~

- ~~a. The minor pruning of bushes, shrubs, or ornamental trees incidental to performing lawn maintenance and/or landscaping on private property.~~
- ~~b. Removal or trimming and cutting of trees on private property that are less than 12" DBH.~~
- ~~c. Pruning, trimming, and cutting of branches that do not require the use of a mechanical lift, bucket truck, climbing and roping, or other similar equipment or operation.~~

17-10-8: PRIVATE PROPERTY SHADE TREE INCENTIVE PROGRAM

Under the direction of the City Manager or his Designee the City shall encourage the planting of shade trees within the front yards of streets where the boulevard area between the street and sidewalk is not sufficient to properly sustain shade tree growth. This shall be accomplished by entering into an agreement with the property owner for the planting and maintenance of said trees; at a minimum the agreement shall have the following conditions:

- A. A private property owner shall apply to the City to participate in this program.
- B. Upon the concurrence of the City Manager or his designee that a need for shade trees exists on the subject property; a formal written agreement between the City and property owner shall be entered into.
- C. In consultation with the property owner, the City Forestry Division shall determine the specific variety of shade tree to be planted.
- D. The maximum distance a tree can be planted shall be fifteen (15) feet from the street right-of-way line.
- E. The property owner shall grant the City permission to enter onto their private property and shall indemnify the City from any damages that may be caused during the tree planting process.
- F. The City will purchase and plant the agreed upon shade tree for the property owner.
- G. Trees will only be planted during the fall and spring planting seasons as determined appropriate by the City Forestry Division.
- H. The property owner shall reimburse the City for the actual cost of the tree and planting materials, not to exceed one hundred dollars (\$100) per tree. The cost of labor and equipment shall be the responsibility of the City.

- I. The City shall provide the property owner with directions on how to properly water, care for, and maintain the tree. Newly planted trees require proper care, including watering, mulching and fertilizing for at least three (3) years.
- J. The property shall be responsible for all future maintenance and upkeep of the tree and agrees to insure that the tree receives proper care and watering for the first three (3) years.
- K. The property owner agrees to not cause the removal of any tree planted under this program without first obtaining the written approval of the City Manager or his designee.
- L. The City reserves the right to limit the number of shade trees that can be planted in any season and agrees to maintain and keep a list of applications on file based on a first come first served basis.
- M. Should the property upon which a tree was planted change ownership during the first three (3) years after the tree was planted; the seller and/or seller's agent shall inform the buyer of the requirements and conditions set forth herein.

17-10-9: EXEMPTIONS

The following exemptions apply to the requirements of this Chapter:

A. A Tree Trimmer and Cutter License shall not be required for the following tree work:

- 1. The minor pruning of bushes, shrubs, or ornamental trees incidental to performing lawn maintenance and/or landscaping on private property.
- 2. Removal or trimming and cutting of trees on private property that are less than 10" DBH.
- 3. Pruning, trimming, and cutting of branches that do not require the use of a mechanical lift, bucket truck, climbing and roping, or other similar equipment or operation.

B. Heritage Tree Removal, Permitting and Replacement:

- 1. Article 17-10-6G shall not be applicable to properties in the following Zoning Districts:
 - a. AG – Agricultural
 - b. F – Forestry
 - c. RR – Rural Residential.
- 2. Article 17-10-6G shall not be applicable when clearing one (1) acre or more of property for development.

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| **17-10-~~910~~: PENALTY**

Any person violating any of the provisions of this Chapter shall be subject to a fine in an amount not less than two hundred fifty dollars (\$250) and not more than seven hundred fifty dollars (\$750.00). Each occurrence shall constitute a separate offence and shall be punishable as such hereunder. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 1407 § 8; Ord. 97-166; 1998 Code)