

CHAPTER 37

TREE CODE

ARTICLE I - GENERALLY

37-1-1 **TITLE.** This Chapter shall be known and may be cited as the "Carlinville Tree Code".

37-1-2 **PURPOSE AND INTENT.**

(A) **Purpose.** It is the purpose of this Code to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs, and other plants within the City.

(B) **Intent.** It is the intent of the City Council that the terms of this Chapter shall be construed so as to promote:

- (1) the planting, maintenance, restoration 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 from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

37-1-3 **DEFINITIONS.** As used within this Chapter, the following terms shall have the meanings set forth in this Section:

(A) **Arboricultural Specifications and Standards of Practice for Carlinville.** (The title hereinafter, shall be the "Arboricultural Specifications Manual"). A manual prepared by the Carlinville Tree Commission pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City-owned property.

(B) **City-Owned Property.** Property within the City limits of Illinois and;
(1) owned by the City in fee simple absolute or;
(2) implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements.

(C) **Property Owner.** The record owner or contract purchaser of any parcel of land.

(D) **Trees, Shrubs and Other Plants.** All vegetation, wood or otherwise, except lawn grass and flowers less than **twenty-four (24) feet** in height.

37-1-4 **TREE COMMISSION; ESTABLISHMENT, COMPOSITION, APPOINTMENT OF MEMBERS, DUTIES.**

(A) **Establishment.** The Carlinville Tree Commission (hereinafter "Tree Commission") is hereby established. Its functions and duties are limited to those set forth in this Chapter.

(B) **Composition.** The Tree Commission shall be composed of **eight (8) commissioners**. **Five (5) commissioners** shall be appointed by the Mayor with the approval of the Council. These **five (5) commissioners** shall serve without pay and shall reside within the City. The remaining **three (3) commissioners** shall be ex-officio and shall not vote. For example, the **three (3) ex-officio commissioners** may be: a Park District Board Member, and two other qualified persons from the City. Subject to the exceptions in paragraph (C), immediately below, each commissioner of the Tree Commission shall serve for a term of **three (3) years**.

(C) **Appointment of Members.** **One (1)** of the **five (5) commissioners** initially appointed to the Tree Commission, who is not an ex-officio member, shall serve for a term of **one (1) year**, **two (2)** of the **five (5) commissioners** initially appointed shall serve for a term of **three (3) years**. Term shall start on a common date. Determination of the length of terms of the **five (5) commissioners** initially appointed shall be by lot. The Mayor shall designate the Chairperson of the Tree Commission.

(D) **Expiration or Vacation of Terms.** Within **thirty (30) days** following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the Council and the successor shall serve for a term of **three (3) years**. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the approval of a majority of the Council.

(E) **Duties.** The Tree Commission shall perform the following duties:

- (1) Within a reasonable time after the appointment of the Tree Commission, upon call of the Chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Code.
- (2) The topics under which this advise and consultation may be given may include, but are not limited to, any of the following:
 - (a) amendments to the Tree Code, and alterations or revisions to the Arboricultural Specifications Manual, and alterations or revisions of the Urban Forestry Plan;
 - (b) policy concerning selection, planting, maintenance and removal of trees, shrubs and other plants within the City;
 - (c) allocation of funds for the Tree Commission, and expenditures of funds by the Tree Commission;
 - (d) establishment of educational and informational programs;
 - (e) issuance of permits required by this Code;

37-1-5 TREE COMMISSION'S RESPONSIBILITIES.

(A) The Tree City Commission shall develop an Arboricultural Specifications and Standards Manual to be used for the planting, removal and care of trees and shrubs on Carlinville Property. These plans shall be approved by the City Council. The Tree Commission shall also develop an Urban Forestry Plan for the City.

(B) It will be the duty of the Carlinville Tree Commission to oversee the implementation of Manual and advise Mayor/City Council as necessary.

37-1-6 PERMITS.

(A) **Scope of Requirement.** No person except the City, an agent of the City, public utility company or a contractor hired by the City may perform any of the following acts without first obtaining from the City a permit for which no fee shall be charged, and nothing in this Section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

- (1) plant trees or shrubs on City-owned property or treat, prune, remove or otherwise disturb any tree, shrub or other plant located on City-owned property, except that this provision shall not be construed to prohibit owners of property adjacent to City-owned property from watering or fertilizing, without a permit, any tree, shrub or other plant located on such City-owned property;
- (2) trim, prune or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on City-owned property and thereby to cause damage to persons or property;
- (3) place on City-owned property, either above or below ground level, a container for trees, shrubs or other plants;
- (4) damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on City-owned property;
- (5) attach any rope, wire, nail, sign, poster or any other manmade object to any tree, shrub or other plant located on City-owned property;
- (6) dig a tunnel or trench on City-owned property. **(See Chapter 33 – Article IV)**

(B) **Issuance.** Within **seven (7) days** of receipt of the application, the City shall issue a permit to perform within **thirty (30) days** of the day of issuance any of the acts specified in parts (A) and (B), immediately above, for which a permit is requested whenever:

- (1) such acts would result in the abatement of a public nuisance; or
- (2) such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;
- (3) an application has been signed by the applicant and submitted to the City detailing the location, number, size and species of trees, shrubs or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used and presenting any additional information that the City may find reasonably necessary;
- (4) the applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Code, the Urban Forestry Plan and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
- (5) the applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Code and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought; and
- (6) if the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a

result of such felling reasonably may be expected to fall upon City-owned property and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the City harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the City Clerk a Liability Insurance Policy in the amount of **One Hundred Thousand Dollars (\$100,000.00)** per person/**Three Hundred Thousand Dollars (\$300,000.00)** per accident for Bodily Injury Liability and **Fifty Thousand Dollars (\$50,000.00)** aggregate for Property Damage Liability, which policy shall name the City as an additional insured.

(C) **Public Utility Companies.** Public utility companies, shall notify the City prior to the initiation of pruning cycles which will involve trees located on City-owned property for the purpose of maintaining safe line clearance. The notice shall state the estimated timeframe of the pruning cycle as well as the planned locations in the City where the work will be performed. All pruning work shall be carried out in accordance with accepted arboricultural standards. Public utility companies shall also notify the City prior to the installation or maintenance of underground utilities if such activity will occur within the dripline of trees located on City-owned property. In the case of severe storms, natural disasters or other emergency situations, a public utility company may perform any required pruning or underground utility maintenance necessitated by such situation and thereafter notify the City of the work performed.

37-1-7

PUBLIC NUISANCES.

(A) **Definition.** The following are hereby declared public nuisances under this Code:

- (1) any dead or dying tree, shrub, or other plant, whether located on City-owned property or on private property;
- (2) any otherwise healthy tree, shrub or other plant, whether located on City-owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub or other plant;
- (3) any tree, shrub or other plant or portion thereof, whether located on City-owned property or on private property, 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 whether located on City-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on City property;
- (5) any tree, shrub or other plant or portion thereof whether located on City-owned property or on private property which dangerously obstructs the view as such may be determined by the City Code Enforcement Officer pursuant to Code.

(B) **Right to Inspect.** The officers, agents, servants and employees, of the City have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(C) **Abatement.** The following are the prescribed means of abating public nuisances under this Code:

- (1) Any public nuisance under this Code which is located on City-owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
- (2) Any public nuisance under this Code which is located on private owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied.
 - (a) the City shall cause a written notice to be personally served or sent, by registered mail, to the person to whom was sent the tax bill for the general taxes for the last preceding year;
 - (b) such notice shall describe the kind of tree, shrub or other nuisance, its location on the property and the reason for declaring it a nuisance;
 - (c) such notice shall describe by legal description or by common description the premises;
 - (d) such notice shall state the actions that the property owner may undertake to abate the nuisance;
 - (e) such notice will require the elimination of the nuisance no less than **thirty (30) days** after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.
- (3) The Code Enforcement Officer is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Code Enforcement Officer to be an immediate threat to any person or property.

37-1-8 **INTERFERENCE WITH CITY.** No person shall unreasonably hinder, prevent, delay or interfere with the City's agents while engaged in the execution or enforcement of this Code.