

ORDINANCE NO. 30-2013

**AN ORDINANCE AMENDING CHAPTER 21, STREETS
AND SIDEWALKS, OF THE EVERGREEN PARK
MUNICIPAL CODE BY PROVIDING FOR THE CARE,
PLACEMENT, AND PROTECTION OF TREES ON PUBLIC
PROPERTY AND VILLAGE RIGHTS-OF-WAY**

JAMES J. SEXTON
Mayor

**MARY KEANE
CAROL E. KYLE
MARK MARZULLO
DANIEL McKEOWN
JAMES A. McQUILLAN
MARK T. PHELAN**
Trustees

CATHERINE T. APARO
Village Clerk

LOUIS F. CAINKAR, LTD.
Village Attorney

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WHEREAS, the health, safety, and general welfare of the public and the conservation and protection of the natural resources of the Village and their values necessitate the implementation of regulations to guide the planting, maintenance, and removal of shade and ornamental trees on public property and rights-of-ways within the Village; and

WHEREAS, high growth areas, where natural green spaces are diminishing, have fewer trees remaining to transform the carbon dioxide of ever increasing, harmful vehicular and industrial emissions into oxygen, resulting in severe air quality degradation; and

WHEREAS, the removal of forest canopy from urban areas of the state and its replacement with more intensive land uses exacts real costs upon the infrastructure which must be borne by all citizens of the community; and

WHEREAS, community forests function to the benefit of the local citizenry as a part of the public infrastructure as much as streets, utilities, storm water management structures, and sewers, and integrated forest canopies reduce the costs of maintenance of other co-located parts of the urban infrastructure; and

WHEREAS, well-managed urban forest resources increase in value and provide benefits to all the citizens of the community with respect to air quality, water quality, storm water management, temperature amelioration, and general quality of life and, healthy community forests increase local commercial and residential property values; and

WHEREAS, these benefits are crucial to the long-term health, benefit, welfare, and safety of the citizens of the community; and

WHEREAS, this tree protection law is one part of a dedicated and integrated planning process dealing with land use, impacts of impervious surface, urban hydrology and water quality, air quality, soil erosion, transportation, noise abatement, and wildlife habitat; and

WHEREAS, the Mayor and Board of Trustees find that it is in the best interest of the public to provide standards and requirements for the conservation, protection, and replacement of trees on public property for the purpose of making this Village a more attractive and healthier living environment;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees that the Village of Evergreen Park, Cook County, Illinois, as follows:

Section 1

That the following Sections be added to Article V, Trees and Shrubs, of Chapter 21, Streets and Sidewalks, of the Evergreen Park Municipal Code to read:

Sec. 21-133. Definitions.

Administrator: The Director of Public Works or his designee.

Critical Root Zone: That area of tree roots around the tree measured to be no less than 1.5 feet radius for every inch of trunk diameter measured 4 feet above ground.

Street Trees: Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or right-of-way within the Village or lying within all rights-of-way of all streets, avenues, or ways within the Village.

Topping: Topping is defined as the severe cutting back of the tree limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Park and Public Trees and Landscape: Park and Public trees are herein defined as trees, shrubs, bushes, and all other vegetation in public parks and on public property at public facilities, and all area owned by the village, or to which the public has free access.

Sec. 21-134. Public Tree Protection and Care.

(a) Except as hereinafter provided, no person except a public utility shall cut, prune, injure, or remove any living tree on or in a public highway, right-of-way, neutral ground, public park, public place, triangle, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property; or spray with any chemical insecticide or herbicide or other oils or whitewash any tree on public property; or place any wire, rope, sign, poster, barricade, or other fixture on a tree or tree guard on public property; or injure, misuse, or remove any device placed to protect any such tree.

(1) No person shall pile building material or other material, about any tree, plant, or shrub in a street in any manner that will in any way injure such tree, plant, or shrub.

(2) No person shall pave or place gravel, soil, or other such material within the critical root zone of any tree on public property, unless approved by the administrator.

- (3) No person shall dump, pour, or spill any oil, herbicide, insecticide, or other deleterious matter upon any tree or tree space in any street or within the critical root zone of any tree, or keep or maintain upon any street, any receptacle from which oil or herbicide, pesticide, or other deleterious matter leaks or drips, or said material onto any parking or concrete gutter so as to injure any tree or any public property.
- (4) No person shall damage the critical root zone of any street tree by compacting soils with heavy equipment.
- (5) No person shall apply mulch to a public tree in an improper manner that will harm the tree (i.e., "volcanic mulch").
- (6) No person shall use the rights-of-way, parks, sidewalks, or public places to dump grass clippings, tree trimmings, rocks, or refuse of any matter.
- (7) No person shall decorate a public tree or place advertising matter, posters, or political placards on trees or in public properties.

Sec. 21-135. Notification and Penalties.

(a) Any person who shall injure, damage, or destroy any public tree situated upon the public right-of-way of any street, alley, sidewalk, park, or other public property within the Village shall promptly notify the Village administrator of such fact and shall, within such reasonable time as specified by the Village administrator, repair or replace the same to the satisfaction of the Village administrator.

(b) Should the person fail or refuse to repair or replace the damaged or destroyed trees or plants within such reasonable time, the Village administrator shall do or cause to be done the necessary repairing or replacement, and the costs of this work shall be recovered from the person responsible for the damage or destruction by, a proper action of law. In any such action, "The Guide for Establishing Values of Trees and Other Plants", published by the Council of Trees and Landscape Appraisers, current edition, shall form the basis for establishing any monetary damages due for damage or destruction to the tree. In addition, the Village may recover for any other damages or losses to which it is entitled by law.

Sec. 21-136. Village Requirements.

The Village shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the rights-of-way of all streets, parks, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. An adjacent property owner may trim trees, plants, and shrubs on the public right-of-way provided that such does not damage the trees, plants, and shrubs. No person may remove or kill any tree, plant, or shrub on the public right-of-way or public property.

Sec. 21-137. Duties of the Administrator.

It shall be the expressed duty of the administrator, when necessary, to issue permits, inspect tree work, require certain tree work to be performed, and enforce provisions of this ordinance.

Sec. 21-138. Private Landowner Responsibilities and Rights.

Every owner of any tree overhanging any street or right of way within the Village shall prune the branches so that such branches shall not substantially obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign or line of sight.

Nothing in this ordinance is intended to prohibit the planting of street trees by adjacent property owners providing that the selection and location and planting of said trees is in accordance with specifications of this ordinance and with prior approval of the administrator.

Sec. 21-139. Development of Arboricultural Specifications.

(a) The Department of Public Works shall develop and maintain arboricultural specifications for tree care and replacement as follows:

- (1) A list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet), and large (more than 40 feet). The Department of Public Works will also create a list of trees suitable for planting. The following trees are permissible:

Smaller Trees: Apricot, Crabapple, Golden Rain Tree, Hawthorne (sp.), Bradford Pear, Redbud, Soapberry, Japanese Lilac Tree, Flowering Peach, Purpleleaf Plum, Service Berry

Medium Trees: Hackberry, Honeylocust (thornless), Linden or Basswood (sp.), Red Mulberry (fruitless, male), English Oak, Red Oak, Japanese Pagodatree, Pecan, River Birch, Osageorange (male, thornless), Persimmon, White Poplar, Sassafras

Large Trees: Kentucky Coffeetree, Silver Maple, Sugar Maple, Bur Oak, Sycamore, London Sycamore, Cottonwood (cottonless, male)

- (2) The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in the arboricultural specifications. No trees may be planted closer to any curb or

sidewalk than the following: small trees, two (2) feet; medium trees, four (4) feet; and large trees, six (6) feet.

- (3) No street tree shall be planted within twenty-five (25) feet of any street corner, except on Village property measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within ten (10) feet of any fire hydrant.
- (4) No tree, other than those particularly designated for planting under overhead lines by the Department of Public Works, shall be planted under or within ten (10) feet of a line drawn vertically below any overhead utility wire or any recorded utility right-of-way of a greater width. Trees planted within twenty (20) feet must be of a small species listed in the arboricultural specifications developed by the Department of Public Works.
- (5) The Department of Public Works must review a utility tree trimming policy prior to any trimming by the utility company to assure current arboricultural specifications are followed.
- (6) All stumps of street and park trees shall be removed below the surface of the ground of the ground so that the top of the stump shall not project above the surface of the ground where necessary for public safety.

(b) Public Education. It shall be the responsibilities of the Department of Public Works to undertake a public Arbor Day planting activity and develop and/or secure and distribute tree care and tree benefit information as part of a Village-wide educational program.

Section 21-140. Prohibited Trees.

The following trees shall not be planted on the public right-of-way or any public property:

- (a) Box Elder (*Acer negundo*);
- (b) Tree of Heaven (*Ailanthus*);
- (c) Any species containing thorns; (i.e., Hawthorns, Locusts);
- (d) Female Ginkgo (*Ginkgo biloba*);
- (e) Any variety of Poplar (*Populus*); (i.e., Cottonwood);
- (f) Any variety of Willow (*Salix*);
- (g) Elm (not disease resistant);

- (h) Any species of Ash (*Fraxinus*); or,
- (i) Any species of Mulberry (*Morus*).

Sec. 21-141. Permit.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within a public right-of-way without being licensed by the Village of Evergreen Park.

Sec. 21-142. Emergency Action.

It may become necessary, from time to time for emergency crews to prune or remove trees to provide for public safety or restore phone or electrical service. Such an action may be conducted by government, emergency, or utility crews without permit so as to allow immediate action to prevent damage or correct a condition which may pose a hazard to life or property. The administrator shall be notified of any such action within 24 hours of the action being initiated, by the entity taking such action, for each instance of action.

Sec. 21-143. Liability.

Nothing contained in this ordinance shall be deemed to impose any liability upon the Village, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plants upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any public property or right-of-way or public place within the Village.

Sec. 21-144. Appeals.

Any action of the administrator may be appealed to and heard by the Public Works Committee. An appeal must be filed within ten (10) calendar days after the decision of the administrator. The appeal shall be in writing and shall be filed with the Village Clerk for placement on the agenda. The appeal shall clearly specify the reasons for which a hearing is requested. The decision of the Public Works Committee shall be final.

Section 2

Unless otherwise provided, the penalty clause for this ordinance shall be Section 1-9 of the Evergreen Park Municipal Code.

Section 3

If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

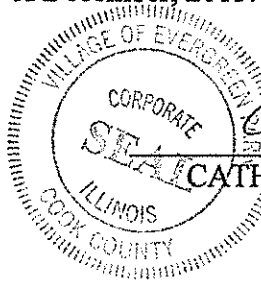
Section 4

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 5

This ordinance shall be in full force and effect after passage, approval, and publication. This ordinance is authorized to be published in pamphlet form.

This ordinance was passed and deposited in the office of the Village Clerk of the Village of Evergreen Park this 2nd day of December, 2013.


Catherine T. Aparo
CATHERINE T. APARO, Village Clerk

APPROVED by me this 2nd
day of December, 2013.


JAMES J. SEXTON, Mayor