

## ORDINANCE NO. F-1739

### AN ORDINANCE AMENDING CHAPTER 78 "VEGETATION," ARTICLE I "IN GENERAL" OF THE WHEATON CITY CODE

BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois, as follows:

**Section 1:** That Article I. "In General" of Chapter 78 "Vegetation" of the Wheaton City Code, 1996, as amended, is hereby repealed and rescinded in its entirety and replaced with the following:

#### “ Sec. 78-1. Purpose.

This article shall govern the planting, removal and maintenance of trees, shrubs, and other plantings ("tree(s)") in, on or over any street, right of way or other public property ("public way") under the jurisdiction of the City.

#### Sec. 78-2. Enforcement.

The Director of Public Works or an authorized representative is hereby empowered to superintend, regulate the planting, preservation, protection, removal, and maintenance of trees on or over any street, right of way or other public property ("public way") under jurisdiction of the City. The City shall have the right to plant, prune, maintain and remove any and all plantings in public ways when the City, in its sole discretion, deems it necessary.

#### Sec. 78-3. Tree Committee - Composition; appointment of members; powers and duties.

There is hereby established, for purposes of this article, a tree committee composed of the Director of Public Works, the Forestry Superintendent, Director of Engineering, and Director of Planning and Economic Development.

The tree committee shall meet, as needed, to manage the Public Way Tree Planting List, tree management plan, shared tree planting program and the allocation and expenditure of funds concerning selection, planting, maintenance and removal of parkway trees and shall forward recommendations to the City council as necessary.

#### Sec. 78-4. Permit Requirements.

(a) **Permit Required.** Excluding City work, it shall be unlawful to plant, place, trim, remove, treat, damage, cut, tap, carve, transplant or attach a rope, wire, nail, sign, poster or any other object to any tree, shrub or other planting in any public way without having first obtained a permit therefore.

(b) **Application For Permit.** Applications for a permit shall be made in writing to the Director of Public Works and shall contain such information as the Director of Public Works

may, from time to time, require. Application forms shall be available from the Director of Public Works. In the absence of the needed permission, the Director of Public Works or an authorized representative may require removal of any non-permitted tree, either by the property owner or the City.

(c) Issuance of Permit. The Director of Public Works or his representative shall issue a permit after a complete application is filed, provided the work to be performed is in compliance with all provisions of this code. Permits may contain such conditions as the Director of Public Works deems necessary for the proper administration of this article and to ensure compliance with this code.

Sec. 78-5. Planting Standards.

(a) Trees shall be planted using best management practices, and shall have a minimum diameter of two inches (2") measured at a distance of six inches (6") above the ground and shall have a continuous single trunk. All trees shall be free from deformity and indication of undesirable growth characteristics.

(b) Trees, when planted, shall be free of infectious disease or insect infestation.

(c) Placement and location of trees in the public way less than eight feet (8') in width as measured between the sidewalk and curb or edge of pavement, or fourteen feet (14') between the property line and curb or edge of pavement, shall be subject to the approval of the Director of Public Works or his designee.

(d) Trees within the public way or within private property for corner lots shall not be planted closer than thirty feet (30') from the property corner adjacent to the street intersection.

(e) Spacing of trees shall be as follows unless otherwise approved by the Director of Public Works or his designee. Trees shall be planted:

1. at thirty foot (30') intervals from existing trees;
2. a minimum distance of five feet (5') from driveway aprons measured at the curb or edge of pavement, sidewalks, utility mains and their appurtenances, and utility service lines;
3. a minimum distance of ten feet (10') from alleyways, street light poles and utility poles; and
4. a minimum distance of fifteen feet (15') from any crosswalks or traffic control device.

(f) No tree shall be planted where the soil is too poor to ensure the growth of such tree.

(g) Only low growing trees that do not exceed twenty feet (20') at maturity shall be planted within the public way under overhead utility lines, including service lines.

(h) Approved species. Tree species planted in the public way must conform to the Public Way Tree Planting List as approved by the Director of Public Works or his designee which are included in planting standards on file with the City.

#### Sec. 78-6. Prohibited species.

It shall be unlawful to plant any of the following trees within the public way:

<u>Common Name</u>	<u>Botanical Name</u>	<u>Common Name</u>	<u>Botanical Name</u>
Fir	Abies (All species)	Bradford Pear	Pyrus calleryana Bradford
Box Elder	Acer Negundo	Buckthorn	Rhamnus (all species)
Tree of Heaven	Ailanthus gladulosa	Sumac	Rhus (all species)
Hawthorn	Crataegus (var. w/ thorns)	Black Locust	Roninia Pseudoacacia
Russian/Autumn	OliveElaegnus (all species)	Willow	Salix (all species)
Ginkgo (female var.)	Ginkgo (female var.)	Yew	Taxus (all species)
Walnut	Juglans (all species)	Arborvitae	Thuja (all species)
Juniper	Juniperus (all species)	Hemlock	Tsuga (all species)
Ash	Fraxinus (all species)	Siberian Elm	Ulmus pumila
Osage Orange	Maclura pomifera	Maple	Acer (all species)
Mulberry	Morus (all species)	Fruit bearing trees	
Spruce	Picea (all species)		
Pine	Pinus (all species)		
Sycamore/Plane Tree	Platanus (all species)		
Poplar	Populus (all species)		
Black Cherry	Prunus serotina		
Douglas Fir	Pseudotsuga menziesii		

#### Sec. 78-7. Tree Trimming.

All trees within the public way will be trimmed in accordance with the Arboriculture Standards Manual using best management practices. The trimming of street trees shall be accomplished only by the City of Wheaton employees, those licensed tree care companies contracted by the City to perform such work, or a public utility.

(a) Systematic trimming and pruning shall be carried out to accomplish the following:

1. Removal of dead branches, seriously damaged branches and unbalanced branches and limbs.
2. Remove all lower limbs to a minimum height of fourteen feet (14') on all sides of the tree and uniformly balance the tree structure.
3. Shaping of young trees so that they will develop a single tall straight trunk, a strong central framework or branch structure and symmetrically balanced crown.
4. Reasonable removal of limbs that seriously interfere with or hinder the proper development of adjacent public way and/or private trees.

5. All final cuts shall be "collar cuts" made sufficiently close to the trunk or parent limb, without cutting into the branch or collar or leaving a protruding stub, so that closure can readily begin under normal conditions.
6. All limbs to be removed shall be cut in such a manner so as to prevent any ripping or tearing of the wood or bark on the parent or remaining stem.
7. No tree topping shall be allowed.

(b) All contractors, utilities or contractors working for utilities shall not use climbing irons in trees on City public ways for any purpose other than removal of that tree or in an emergency.

Sec. 78-8. Tree Removal.

(a) No person shall, without written permission from the Director of Public Works, remove, destroy, break, cut, deface, trim, injure or interfere with any tree, shrub or woody plant growing in any public way.

(b) Trees shall be removed from the public way when determined necessary by the Director of Public Works or his designee for reasons of tree health and public safety. Prior to such removal, notice will be given to the resident of the abutting private property stating the reason for the removal. In the event of an emergency, the City has the authority to remove any tree in the public way without said notice when considered necessary for public safety.

(c) Upon the removal of any tree located in a public way, the stumps will be ground to a depth of twelve inches (12") below existing grade. Stump grindings will be removed, replaced with topsoil and restored with top soil and grass seed.

(d) Nothing in this section shall serve to prevent other governmental agencies or private utility companies from performing their functions in compliance with local laws, ordinances, franchise agreements or other agreements approved by the City of Wheaton.

Sec. 78-9. Overhanging branches – duty of owner to remove.

Any tree or tree limb, shrub or other planting which overhangs any public way in such a way as to impede or interfere with traffic or travel or interferes with any public or City utility or is dead, decaying or broken and likely to fall on or across any public way, may be determined to be a public hazard. Upon such determination, the Director of Public Works or his designee shall cause a 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 on the lot or parcel of land on which the overhanging branches are located. Such notice shall identify the property, by common description, the tree, shrub or other planting affected, and shall contain a request that such tree, shrub or other planting be removed or trimmed by the owner of the property. In addition, such notice shall contain a copy of this article and any amendments thereto.

Sec. 78-10. Same – removal by City; costs.

If the person having ownership or control over any lot of parcel of land fails, neglects or refuses to remove the identified hazard within thirty (30) days after service of notice as provided in this article, the Director of Public Works or his designee may proceed to remove or trim the hazard at the owner's expense. In the event of the failure or refusal of the owner to pay the cost of the work performed under Section 78-9 and within sixty (60) days thereafter, the Director of Public Works shall cause a lien for such costs to be filed in the office of the recorder of deeds of the county against the property on which the tree or shrub is located.

Sec. 78-11. Protection from poles and wires.

Any person or company given the right to maintain poles and wires in the streets, alleys or other public places in the City shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in any public place, so far as may be possible, and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the City, so that no injury shall be done either to the poles or wires or the shrubs and trees by their contact.

Sec. 78-12. Protection from gas leaks.

Any person or company maintaining any gas pipe in the City shall, in the absence of provisions in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

Sec. 78-13. Removal of unauthorized plantings.

The City may remove any unauthorized plantings within any public way without compensation to the owner.

Sec. 78-14. Penalty.

Any person, firm, corporation or public utility found to be in violation of any provision of this article shall be fined not less than \$100.00 or more than \$1,000.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues after notice has been given in accordance with the provisions of this article, with each day any such violation exists constituting a separate and distinct violation, and each tree impacted in violation of this article.

**Section 2:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be repealed.

**Section 3:** This ordinance shall become effective from and after its passage, approval and publication in pamphlet form in the manner prescribed by law.

  
Michael J. Fiterman  
Mayor

Mayon

Attest:

Attest:  
  
Sean Bennett Hogan  
City Clerk

### City Clerk

Roll Call Vote:

Ayes: Councilman Suess  
Councilman Prendiville  
Councilman Rutledge  
Councilman Saline  
Mayor Gresk  
Councilwoman Pacino S  
Councilman Scalzo

Nays: None  
Absent: None

### Motion Carried Unanimously

Passed: December 2, 2013  
Published: December 3, 2013