

## CHAPTER 38

### TREE AND SHRUB REMOVAL

#### ARTICLE I – REGULATIONS FOR THE CREATION OF PLOTS OF PRAIRIE GRASS

**38-1-1**     **PURPOSE.** This Article is enacted in order to encourage the regulated development of prairie grass plots within the corporate limits of the City while ensuring the aesthetic, safety, and environmental integrity of adjoining properties.

**38-1-2**     **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**"Burning":** Reduction by fire of prairie grass in a manner wholly consistent with the terms of the IDNR Acres for Wildlife Program.

**"IDNR":** The Illinois Department of Natural Resources.

**"Prairie Grass":** Any of **five (5)** species of grasses identified by the Illinois Department of Natural Resources Acres for Wildlife Program as follows:

- (1)           Big Bluestem (*Andropogon gerardii*);
- (2)           Little Bluestem (*Schizachyrium scoparius*);
- (3)           Sideoats Grama (*Bouteloua curtipendula*);
- (4)           Indiangrass (*Sorghastrum nutans*); and
- (5)           Switchgrass (*Panicum virgatum*).

**"Setback":** Space between prairie grass plots and neighboring properties intended to reduce the impact of a prairie grass plot on the adjacent properties.

**38-1-3**     **DEVELOPMENT PERMITS.**

(A)           Persons wishing to establish prairie grass plots within the corporate limits of the City shall submit to the City Council at least **thirty (30) days** in advance of conditional approval a written plan including drawings, illustrations, and maps showing the proposed prairie grass plot in relation to adjoining properties and structures.

(B)           Upon submission and review of the plan with the City Council, the City Clerk shall notify owners of adjoining properties by mail of the permit request. Public review will be sought no later than the next regularly scheduled City Council meeting. Conditional approval or disapproval will be enacted by the City Council no later than the next regularly scheduled City Council meeting after acceptance of public review of the plan.

(C)           Upon approval of a submitted plan, the City Council will issue conditional permission to proceed with planning to the proposing property owner. The proposing property owner shall then be required to seek and gain acceptance into the

Illinois Department of Natural Resources Acres for Wildlife program. Upon submission to the City Clerk of a copy of the letter of acceptance into that program, final permission will be considered granted. No construction, tillage, nor any other physical amendment to the property proposed for development of the prairie grass plot shall occur before issuance of a final letter of permission.

(D) Upon issuance of final approval, the property involved in the prairie grass plot only shall be exempt from those municipal ordinances regulating the height of grasses. All setback areas shall remain subject to those municipal ordinances regulating the height of grasses.

**38-1-4 COMPOSITION.** Prairie grass plots shall be planted only with the **five (5) species** of grasses described in **Section 38-1-2.** Efforts toward maintenance, care, and propagation of vegetation in these designated plot areas shall be directed toward the successful growth of these species only.

**38-1-5 SETBACKS.** Setbacks shall be **fifty (50) feet** from adjoining property lines. Setback acreage shall not be included in the calculation of minimum plot size. Buffering vegetation, including trees, shrubs, and well maintained grasses, shall be permissible within the setback areas. Setback areas shall not be exempt from relevant property maintenance and grass and weed ordinances.

**38-1-6 MINIMUM PLOT SIZE.** Prairie grass plots within the corporate limits of the City shall be no less than **one (1) acre** in size. Properties included in setbacks shall not be included in the calculation of the minimum plot size.

**38-1-7 BURNING.** Burning of the prairie grass plot shall be conducted within the following regulations:

(A) Burning of prairie grass plots shall be limited to the period of **March 1** through **March 31** of any given year;

(B) Burning shall be limited in frequency to once every **three (3) years;**

(C) Burning shall be conducted only by a person or persons who have successfully completed training in prairie grass burning by the IDNR;

(D) Adjoining neighbors shall be notified in writing at least **seven (7) days** in advance of the intent to burn prairie grass plots;

(E) Burning shall commence only with the approval that day by a full-time member of the Fire Department, with consideration given to atmospheric, environmental, and climactic conditions such as wind, wind direction, proximity of adjoining structures, and other conditions that might unreasonably increase the hazard of plot burning.

(F) The property owner shall bear full liability and responsibility for any damage, losses, or other burdens placed upon property owners as a result of prairie grass burning.

**38-1-8** **MAINTENANCE.** All plots of prairie grass permitted by the City Council shall remain enrolled in and in good standing with the "Acres for Wildlife" program with the Illinois Department of Natural Resources, and must comply with all guidelines established by that program, all of which guidelines are hereby adopted by reference into this Article.

**(Ord. No. 2001-002-01; 02-26-01)**

## ARTICLE II

### PLANTING, MAINTENANCE AND REMOVAL OF TREES, SHRUBS AND OTHER PLANTS

**38-2-1**     **TITLE.** This Article shall be known and may be cited as the "Du Quoin Tree Code" of Du Quoin, Illinois.

**38-2-2**     **PURPOSE AND INTENT.**

(A)     **Purpose.** It is the purpose of this Article 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 Du Quoin, Illinois.

(B)     **Intent.** It is the intent of the City Council that the terms of this Article 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.

**38-2-3**     **DEFINITIONS.** For the purpose of this Article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**"City Owned Property":** Property within the City limits of Du Quoin, Illinois and owned by the City in fee simple absolute or; implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements.

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

**"Trees, Shrubs and Other Plants":** All vegetation, woody or otherwise, except lawn grass and flowers less than **twenty-four (24) inches** in height.

**38-2-4**     **IMPLEMENTATION AND ENFORCEMENT.**

(A)     **Tree Commissioner Designated.** The Commissioner of Streets and Public Improvements of the City or the duly delegated representative of the Commissioner of Streets and Public Improvements is hereby charged with the implementation and enforcement of the terms of this Article. The Commissioner of Streets and Public Improvements of the City or the duly delegated representative of the

Commissioner of Streets and Public Improvements of the City shall be referred to in this Article also as the Tree Commissioner.

(B) **Duties.** The Tree Commissioner shall perform the following duties:

- (1) The Tree Commissioner shall advise the City Council on any matter pertaining to the Du Quoin Tree Code and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
  - (a) Amendments to the Du Quoin Code;
  - (b) Policy concerning selection, planting, maintenance and removal of trees, shrubs and other plants within the City; establishment of educational and informational programs;
  - (c) Establishment and promotion of the Arbor Day Celebration;
  - (d) Issuance of permits required by this Article.
- (2) The Tree Commissioner shall hear all issues of the disputes which arise involving matters or the interpretation or enforcement of this Article, or of the disputes regarding the issuance of permits or the abatement of nuisances. Nothing in this Section shall be construed to the limit of jurisdiction of any court of law with respect to such disputes.

### **38-2-5 PERMITS.**

(A) **Scope of Requirements.** No person except as authorized by the Tree Commissioner, public utility company or a contractor hired by the Tree Commissioner may perform any of the following acts without first obtaining from the Tree Commissioner 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) Damage, tap, carve, or transplant any tree, shrub or other plant located on City owned property; however, the person who planted such tree, shrub or other plant, may in his or her discretion, prune, trim, remove or replace such tree, shrub or other plant;
- (2) Attach any rope, wire, nail, sign, poster or any other manmade object to any tree, shrub or other plant located on City owned property;
- (3) Dig a tunnel or trench on City owned property.

(B) **Issuance.** Within **seven (7) days** of receipt of the application, the City Clerk shall issue a permit to perform within **thirty (30) days** of the day of issuance any of the acts specified in paragraphs (1) and (2) immediately above, for which a permit is requested whenever:

- (1) Such acts would result in the abatement of a public nuisance; or
- (2) An application has been signed by the applicant and submitted to the Tree Commissioner, through the City Clerk, 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 Clerk may find reasonably necessary;
- (3) The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Article, the Urban Forestry Plan and with the regulations and standards set forth in this Article; and
- (4) The applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Article which are pertinent to the work for which the permit is sought; and the application hereinabove mentioned shall contain a provision whereby the applicant agrees to indemnify and hold harmless the City of Du Quoin from any and all liability for accidents occurring to persons or property as a result of the issuance of the permit hereinabove mentioned.

(C) **Public Utility Companies.** Public utility companies shall notify the City Clerk 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 time frame 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 Clerk 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 company may perform any required pruning or underground utility maintenance necessitated by such situation and thereafter notify the City Clerk of the work performed.

### **38-2-6 PUBLIC NUISANCES.**

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

- (1) Any dead or dying tree or any dead or dying shrub, whether located on City owned property;
- (2) Any otherwise healthy tree or shrub, when located on City owned property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub or other plant;

- (3) Any tree or shrub or portion thereof, when located on City owned 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 or shrub or portion thereof when located on City owned property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on City property;
- (5) Any tree or shrub or portion thereof located on City owned property which dangerously obstructs the view as such may be determined by the Tree Commissioner.

(B) **Right to Inspect.** The officers, agents, servants and employees of the City have the authority to enter onto any City property whereon there is located a tree, shrub 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 Article:

- (1) Any public nuisance under this Article which is located on City owned property shall be pruned, removed or otherwise treated by the property owner or his or her agent in whatever fashion is required to cause the statement of the nuisance within a reasonable time after its discovery.
- (2) The Tree Commissioner is hereby empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Tree Commissioner to be an immediate threat to any person or property.

**38-2-7 INTERFERENCE WITH CITY EMPLOYEES/TREE COMMISSIONER.**

No person shall unreasonably hinder, prevent, delay or interfere with the Tree Commissioner or his or her agents while engaged in the execution or enforcement of this Article.

**38-2-8 APPEAL.** Any party who elects to dispute any action or decision by the Tree Commissioner or City Clerk shall be entitled to appeal to the City Council for a final determination.

**38-2-9 PENALTY.** Any person who violates any provision of this Article or who fails to comply with any notice issued pursuant to the provisions of those sections, upon being found guilty of violation, shall be subject to a fine not less than **One Hundred Dollars (\$100.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)** for each separate offense. Each day during which any violation of the provisions of this Article shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Article, the injury, mutilation, or death of a tree, shrub or other plant located on City owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation.

**(Ord. No. 2004-008-01; 12-13-04)**