

Summary
Board Bill Number 156
Introduced by Alderman Michael Browning
February 13, 2026

An ordinance updating the Forestry Division regulations for the planting, maintenance, preservation, and management of trees, shrubs, and plants in the City of St. Louis; containing definitions, administrative, regulatory, penalty, and severability provisions.

BOARD BILL NUMBER 156 INTRODUCED BY ALDERMAN MICHAEL BROWNING

1 An ordinance updating the Forestry Division regulations for the planting, maintenance,
2 preservation, and management of trees, shrubs, and plants in the City of St. Louis; containing
3 definitions, administrative, regulatory, penalty, emergency, and severability provisions.

4 **WHEREAS**, Trees offer many benefits including: shade, reduction in ambient temperatures,
5 absorption of rainwater, sequestration of CO2 emissions, limit the effects of wind, support
6 biodiversity, improve mental and physical health of the public, improve property values and
7 contribute to reduced vehicle speeds; and

8 **WHEREAS**, The planning, development, maintenance, and cultivation of a diverse, dense, and
9 healthy urban forest within the City of St. Louis in perpetuity is desirable and in the best interest
10 of the health, welfare, comfort, and general wellbeing of the City’s residents.

11 **BE IT ORDAINED BY THE CITY OF ST. LOUIS, AS FOLLOWS:**

12 **SECTION ONE.** Repeal.

13 **Ordinance Number 68607** codified in Chapter 22.48 of the Revised Code of the City of St.
14 Louis is hereby repealed in its entirety, and in lieu thereof a new ordinance is hereby enacted as
15 follows.

16 **SECTION TWO.** Purpose and Intent.

17 A. The planning, development, maintenance, and cultivation of a diverse, dense, and mature
18 urban forest within the City of St. Louis in perpetuity is desirable and in the best interest
19 of the health, welfare, comfort, and general well being of the City’s residents, because of
20 the positive environmental, social, and economic benefits trees provide, such as oxygen
21 production, dust filtration, stormwater runoff reduction, pollution absorption, erosion

1 control, phytoremediation, creation and enhancement of recreational spaces,
2 beautification, energy cost reduction, and the provision of shade.

3 B. The presence of mature and healthy trees is important in the stabilization and growth of
4 neighborhoods, as attractive tree-lined streets contribute to increased property values,
5 lower energy costs, decreases in crime, provide mental health benefits and create a more
6 walkable environment.

7 C. The proper management, care, and protection of the City's urban forest requires policies
8 and specifications for the planting, maintenance, preservation, and management of trees,
9 shrubs, and plants on City property, and in some circumstances on private property, to
10 achieve the aforementioned benefits, to preserve public safety and prevent or control
11 infectious diseases and insect pests harmful to the tree, shrub, and plant population in the
12 City.

13 D. It is the policy of the City:

14 a. To suffer no net loss in the population and canopy of the urban forest under its
15 jurisdiction, as such losses would be detrimental to the health, welfare, comfort,
16 and general well being of City residents by reducing the benefits provided by the
17 City's urban forest;

18 b. To preserve city trees whenever possible during development and land
19 improvement by using the most appropriate and feasible arboriculturally sound
20 methods to preserve city trees from injury and damage, this includes, when
21 possible, keeping the tree lawn free of nonpermeable services, especially
22 concrete, and, where city trees cannot be preserved during development or land

1 improvement, to plant appropriate replacement city trees as prescribed by this
2 ordinance; and

- 3 c. To increase and expand the population and canopy of the urban forest under its
4 jurisdiction by planting new city trees whenever possible to increase the total
5 benefit provided by the City's urban forest.

6 E. The Board of Aldermen finds and declares that:

- 7 a. This ordinance is a "police power" regulation necessary to protect the public
8 health, safety, welfare, and peace;
- 9 b. The effective administration of this ordinance will entail the exercise from time to
10 time of administrative discretion;
- 11 c. It is not possible to provide in legislation comprehensive rules for the appropriate
12 exercise of administrative discretion in all circumstances relating to the proper
13 regulation and management of trees, shrubs, and plants;
- 14 d. Accordingly, it is appropriate to vest discretion in the Commissioner, as
15 hereinafter defined, and the Division, as hereinafter defined, in circumstances
16 where matters affecting proper selection, location, condition, planting and
17 removal of trees, shrubs, and plants are not expressly addressed by this ordinance,
18 and it is the intent of the Board of Aldermen, to the fullest extent permitted by
19 law, to vest such discretion in the Commissioner and the Division, to be exercised
20 in furtherance of the underlying purpose of this ordinance.

21 **SECTION THREE. Definitions.**

1 The following terms shall have the meaning herein prescribed unless otherwise expressly stated
2 in this ordinance:

3 A. "Appraised replacement value" shall mean the value in the most recent edition of the
4 Guide for Plant Appraisal as prepared by the Council of Landscape Appraisers, plus the
5 equipment and labor costs required by the Forestry Division or any Contractor or person
6 acting on behalf of the Forestry Division to remove and replace said tree.

7 B. "Back easement" shall mean the area of the property dedicated to utilities, or the
8 midpoint of the alley serving that property.

9 C. "City" shall mean the City of St. Louis, Missouri.

10 D. "City park" shall mean any park land owned by the city and used or held out for public
11 use as a park, including Tower Grove Park.

12 E. "City property" shall mean all real property which is owned, leased, or maintained by the
13 City, any part of any Right-Of-Way within the City, including City-owned or managed
14 parks.

15 F. "City tree" shall mean any tree located in the front easement or located on city property,
16 excluding the back easement.

17 G. "Code Official" shall mean the Commissioner and any person duly authorized by the
18 Commissioner to enforce the provisions of this ordinance.

19 H. "Commissioner" shall mean the Commissioner of Forestry of the City of St. Louis.

20 I. "Contractor" shall mean a person acting under a contract or written agreement with the
21 City, the Department of Parks, Recreation and Forestry, or the Forestry Division for the
22 performance of an activity or function called for by this ordinance.

- 1 J. “Critical root zone” shall mean all of the ground from the trunk up to a tree’s drip line,
2 which is the area on the ground directly beneath the edge of a tree’s canopy.
- 3 K. “Director” shall mean the Director of the City’s Department of Parks, Recreation, and
4 Forestry.
- 5 L. “Forestry Division” shall mean designated employees of the Forestry Division of the City
6 of St. Louis.
- 7 M. “Hazard tree” shall mean a tree possessing qualities in structure and/or growth that create
8 an unacceptable level of risk to public safety, including on private property.
- 9 N. “Shared Use Path” shall mean a multi-use path designed primarily for use by bicyclists,
10 pedestrians, and other authorized motorized and non-motorized users, for transportation
11 purposes, and that may also be used for recreation. Shared use paths are physically
12 separated from motor vehicle traffic by an open space or barrier and are either within the
13 highway or other public Right-Of-Way.
- 14 O. “Person” shall mean an individual person, corporation, association, or entity of any kind.
- 15 P. “Plant” shall mean any form or type of vegetation that is not a tree or shrub.
- 16 Q. “Reforestation fee” shall mean the actual cost to plant per tree, including the acquisition,
17 equipment, and labor costs.
- 18 R. “Right-of-Way” shall mean Property located within and adjoining streets, roads, and
19 alleys within the City, which is owned, controlled, or maintained by the City, including
20 but not limited to areas commonly referred to as “tree lawn” between public sidewalks
21 and public streets.

1 S. “Shrub” shall mean a woody plant, generally smaller than a tree, typically with multiple
2 stems branching from or near the ground.

3 T. “Street” shall mean the portion of the Right-of-Way between each curb, which is
4 commonly paved for the transportation, and parking, of vehicles and bicyclists, and shall
5 not include the tree lawn or public sidewalks.

6 U. “Spoil” shall mean the excess, unwanted material removed from excavations for
7 foundations, trenches, tunnels, or dredging, that isn't suitable for reuse as backfill and
8 must be disposed of or managed properly like soil, rock, debris, or contaminated
9 sediment.

10 V. “Tree” shall mean a woody perennial usually having one dominant trunk and a mature
11 height typically greater than five (5) meters or sixteen (16) feet.

12 W. “Volunteer Arborists” shall mean the volunteers trained and approved by the Forestry
13 Division through a regulatory program to care for city trees.

14 **SECTION FOUR. Authority.**

15 A. All provisions of this ordinance shall apply to all city property, except as otherwise
16 provided in this ordinance.

17 B. The Commissioner shall prepare and implement procedures, standards, and specifications
18 pertaining to the planting, pruning, removal, disease and insect treatment, protection, and
19 other necessary maintenance and management activities of all trees, shrubs, or plants
20 planted on all Right-Of-Way.

21 C. The Forestry Division shall have authority to enter upon private property at reasonable
22 hours for the purposes of inspecting trees thereon, if there is reasonable cause to believe

1 by virtue of its appearance, or otherwise, that a tree has structural or growth conditions
2 that make it a hazard, or is or may be infected with an infectious disease or vectors that
3 may transmit an infectious disease or an insect pest harmful to the general well being of
4 the entire tree population in the City.

5 D. The Forestry Division shall have the power and authority to mark or otherwise identify
6 any such tree and remove any samples or portions thereof for purposes of further
7 diagnosis of any suspected disease or insect problems.

8 E. The Forestry Division shall have the power and authority to cause trees on private
9 property to be free of hazards, diseases, and insect pests.

10 F. The Commissioner shall determine and maintain standards for the growth and
11 maintenance of trees, shrubs, and plants located on any lot, parcel, or land within the
12 City, including private property so as to prevent the obstruction of vehicular, cyclist, or
13 pedestrian traffic, street corners, intersections, traffic control signs and devices, and street
14 lamps.

15 **SECTION FIVE. Responsibilities and Reporting.**

16 A. The Forestry Division shall be responsible for planting, trimming, maintaining, removing,
17 and stump grinding all city trees along all public Right-Of-Way except back easements.

18 The Forestry Division shall also be responsible for the planting, maintenance, and
19 management of all trees located on city property, including keeping the trees trimmed so
20 that the branches thereof shall not be lower than eight (8) feet from the surface of such
21 street or sidewalk.

1 B. The Forestry Division shall be responsible for creating and maintaining an Annual
2 Forestry Memo which may include:

- 3 a. Number of trees planted of each species in the City by the Forestry Division and
4 contractors.
- 5 b. Number of trees removed of each species in the City by the Forestry Division and
6 contractors.
- 7 c. Number of trees trimmed in the City by the Forestry Division and contractors.
- 8 d. Number of trees injured or cut down without permission.
- 9 e. Progress on goal to increase and maintain city-owned tree canopy by 5% by 2031
 - 10 i. Set/revise five and ten year goals
 - 11 ii. Report progress on previously made goals
 - 12 1. If goals were hit list successful strategies
 - 13 2. If goals were not hit list what is needed to improve the next year
- 14 f. Tree Planting Standards including: tree species, tree lawn sizes, and spacing,
15 including a list of undesirable and desirable street trees, and standards for the
16 minimum size for tree boxes/wells, and the appropriate spacing distances for
17 existing trees located on city property.
- 18 g. Tree removal policy including: standards for when trees are removed and tree
19 removal reason, when possible
- 20 h. The annual Reforestation fee, including: cost of the new tree, equipment, labor
21 costs, material used, clerical costs, and other data appropriate to document the
22 actual cost of the abatement.

- 1 i. Outline any programs, policies, and procedures to foster and encourage the
 - 2 planting of trees by city residents, other public agencies, and businesses.
 - 3 j. Link to the current City Tree Inventory Map and Permitting Page.
 - 4 k. Other information the Commissioner deems necessary and appropriate
- 5 C. The Forestry Division shall annually report to the Health and Human Development
- 6 Committee or its successor the second week in January, presenting the Forestry Memo.

7 **SECTION SIX. Tree Planting.**

- 8 A. All trees on city property shall be planted as set by the standards in the annual Forestry
- 9 Memo.
- 10 B. The Forestry Division shall review and approve all plans for the planting of trees on City
- 11 or private property by any City department or agency and for the planting of trees on
- 12 private property as part of any development project of any kind approved by any City
- 13 department or agency, including agencies operated by St. Louis Development
- 14 Corporation.
- 15 C. Any trees hereafter planted on city property, that are not consistent with the standards
- 16 provided for in this ordinance are hereby declared a public nuisance and subject to
- 17 treatment and abatement as such.
- 18 D. Whenever the Forestry Division removes any city tree, the Forestry Division shall plant a
- 19 new city tree in the closest suitable planting location if funding is available.

20 **SECTION SEVEN. Permit Required to Plant or Maintain.**

- 21 A. This section shall not apply to planting or reforestation activities of the Forestry Division
- 22 or Contractors.

- 1 B. No person shall plant, transplant, relocate, or replace any tree on city property without
2 first obtaining an approved permit (“Permit to Plant”) from the Forestry Division.
- 3 C. No person shall directly or indirectly perform maintenance, including but not limited to
4 pruning or removal, on any city tree without first obtaining an approved permit (“Permit
5 to Maintain”) from the Forestry Division.
- 6 D. The Commissioner shall develop policies and procedures for the Forestry Division to
7 cause the efficient and equitable issuance of tree planting or maintenance permits,
8 including for volunteer arborists under the provisions of this section.

9 **SECTION EIGHT. Permit Conditions: Denial and Revocation.**

- 10 A. The Forestry Division shall establish, by regulation pursuant to Section Eighteen of this
11 ordinance, reasonable conditions on which Permits to Plant or Maintain are to be issued,
12 performed, and completed.
- 13 B. The Forestry Division may deny the issuance of any permit under any section of this
14 ordinance if, in its judgment, issuing said permit is not in the best interest of the City in
15 the maintenance, preservation, sustainability, and/or health of its urban forest. The
16 Commissioner’s decision to deny the issuance of a permit may be appealed in writing
17 within ten (10) days of such denial to the Director, whose decision shall be final.
- 18 C. The Forestry Division may suspend or revoke any permit should the permittee at any time
19 fail to comply with the conditions of the permit. Upon suspension, all work must cease
20 until the conditions of the permit are met.
- 21 D. Any permittee who fails to comply with the conditions of a permit shall be deemed in
22 violation of this section and subject to the penalties prescribed in Section Sixteen.

1 E. Any person performing work under a permit shall have in their possession and produce
2 upon request to the Forestry Division all licenses to operate within the City required by
3 law or other applicable ordinances.

4 F. Any permittee assumes all liability and risk relating to or arising out of any work
5 performed or undertaken under a permit, and all permits shall expressly so provide, and
6 shall further provide that the permittee agrees to indemnify the City for claim, liability, or
7 damage which the City may incur as a result of the issuance of the permit or any action or
8 omission under the permit.

9 G. Any person found by the Forestry Division to have knowingly falsified or concealed
10 information on a permit application shall have their permit application denied, or, if a
11 permit has been issued it shall be revoked. Any such falsification or concealment is a
12 violation of this ordinance.

13 **SECTION NINE. Permit Fees.**

14 A. There shall be no fee for a Permit to Plant, or for a Permit to Maintain, which does not
15 involve the removal of a city tree.

16 B. The Forestry Division shall assess, for the permission to remove a city tree, a
17 reforestation fee for each city tree approved for removal on a Permit to Maintain
18 application. The Commissioner may waive such fee for good cause.

19 C. The reforestation fee for the removal of trees shall be determined as follows:

- 20 a. For trees less than four (4) inches in diameter at breast height, the fee shall be the
21 reforestation fee for a single tree.

1 b. For trees that exceed four (4) inches in diameter at breast height, the reforestation
2 fee shall be for a single tree for the first four (4) inches plus the reforestation fee
3 for each additional two (2) inches of diameter at breast height.

4 c. Multi-stemmed trees shall have the aggregate diameter of each of its trunks used
5 in determining its size.

6 D. Permit to maintain applications that will involve the removal of trees shall be
7 accompanied by the applicable reforestation fee in full. The reforestation fee must be paid
8 in full to the Forestry Division before a Permit to Maintain will be issued pursuant to
9 Section Seven of this ordinance.

10 **SECTION TEN. Tree Preservation and Replacement.**

11 A. Any person issued a building permit shall be responsible for complying with this section;
12 provided that fees required for a Permit to Maintain for the removal of any city tree shall
13 be the responsibility of the person making the application for said permit. In the event a
14 building permit is not issued for work which may affect city trees, then the property
15 owner shall be responsible for complying with all provisions of this section.

16 B. A Permit to Maintain for removal of a city tree as a result of the demolition, renovation,
17 improvement, or erection of any building or outbuilding or any type of improvement on
18 any parcel of land in the City must be issued pursuant to Section Seven of this ordinance
19 before such tree may be removed by any person, including persons employed, contracting
20 with, or otherwise working on behalf of the City and all regulations and fees as
21 prescribed in Sections Eight and Nine of this ordinance shall apply.

- 1 a. Any person who removes or causes to have removed a city tree without the
2 prescribed Permit to Maintain shall be deemed in violation of this section and
3 subject to a Five Hundred Dollar (\$500) fine for acting without a required permit,
4 and an additional fee of the appraised replacement value of the tree or
5 reforestation fee prescribed in Section Nine, whichever is higher and when
6 applicable also triple damages under Rs.Mo 537.340.
- 7 b. The Commissioner shall have the authority to waive the fine and fee in whole or
8 in part for good cause.
- 9 C. All reasonable steps shall be taken to prevent destruction of or damage to city trees (other
10 than city trees approved for removal), during the improvement, demolition, renovation, or
11 erection of any building or outbuilding or any type of improvement on any parcel of land
12 including utility work in the City.
- 13 a. The following required tree preservation activities for any tree in a City Park
14 include but are not limited to:
- 15 i. The placing of protective fencing at the boundary or limits of the
16 established critical root zone of each city tree that has the potential of
17 being injured during construction. Such protective fencing shall be
18 installed before construction of any type begins, with a minimum height of
19 at least four (4) feet, and installed in such a manner that it maintains its
20 rigidity and effectiveness as a barrier.
- 21 ii. Construction equipment, trailers, traffic, and storage must remain outside
22 of the critical root zone.

1 tree for the duration of the critical root zone, unless deemed unreasonable
2 to do so by the Forestry Division.

3 b. The following required tree preservation activities for any tree in the tree lawn
4 include but are not limited to:

5 i. Construction equipment, trailers, traffic, and storage must remain in the
6 street.

7 ii. Materials, equipment, spoil, or waste, must remain in the street.

8 iii. Spoils from trenches, basements, or other excavations must remain in the
9 street.

10 iv. Spoil, waste, or washout water must be properly disposed of.

11 v. No burn piles or debris pits shall be placed within the tree lawn.

12 vi. No debris may be dumped or buried within the tree lawn.

13 vii. Any herbicides placed under paving materials must be safe for use around
14 trees and labeled for that use and not be readily transported by water.

15 viii. City trees shall be root pruned before grading, pad preparation, or
16 excavation for foundations, walls, or utility trenching occurs without a
17 Permit to Maintain applied for and issued in accordance with Section
18 Seven, Eight, and Nine of this Ordinance. Roots shall be cut cleanly using
19 either manual or mechanical methods, equipment approved by the Forestry
20 Division. The use of any type of equipment that otherwise tears, rips, or
21 pulls roots is not permissible.

1 ix. If underground utilities must pass through a critical root zone, they shall
2 be tunneled or bored under the tree for the duration of the critical root
3 zone, unless deemed unreasonable to do so by the Forestry Division.

4 c. The Commissioner by regulation issued pursuant to Section Eighteen of this
5 ordinance, may provide other practices and specifications necessary to effectively
6 preserve city trees at construction sites.

7 d. Prior to the start of construction, any person may request the Commissioner to
8 waive any provisions of this Section that they feel are unreasonable or impose
9 undue financial hardship in the completion of construction. No waiver request
10 made after the start of construction may be granted. The Commissioner's decision
11 on any such waiver request shall be final.

12 D. The Commissioner is authorized to issue an emergency stop work order for up to
13 seventy-two (72) hours if it is in the Commissioner's opinion that the precautions
14 required by this section were not undertaken before construction commenced or are not
15 maintained at any time during construction. The Commissioner may rescind such order
16 within twenty-four (24) hours if the violations for which the order was issued are
17 remedied. If the violations are not corrected within twenty-four (24) hours after issuance
18 of the stop work order and the project is supervised by the Board of Public Service, the
19 Commissioner may request the Board of Public Service to issue a permanent stop work
20 order.

21 a. Penalties, if any, levied by the Board of Public Service shall be in addition to all
22 fines and penalties imposed and prescribed by this ordinance. The Board of Public

1 Service may issue a stop work order at any time of its own volition to any person
2 that fails to comply with any requirement of this Section, until such provisions are
3 met, or may issue a permanent stop work order.

4 E. Failure to obtain any permit required by this ordinance, or to take any precaution as
5 prescribed in this Section, before construction commences or at any time during
6 construction, is a violation of this ordinance and punishable by a fine of Five Hundred
7 Dollars (\$500) for each precaution not undertaken or maintained, in addition to any other
8 applicable fine under this ordinance. Each day is considered a separate violation.

9 F. Failure to stop work upon issuance of an emergency stop order by the Commissioner or a
10 stop work order by the Board of Public Service is a violation of this ordinance and
11 punishable by a fine of Five Hundred Dollars (\$500), in addition to any other fines or
12 penalties prescribed by this ordinance. For each full hour that work continues after the
13 issuance of a stop work order is considered a separate violation.

14 G. Any person who damages any city tree during construction, demolition, renovation,
15 improvement, or erection of any building or outbuilding or any type of improvement on
16 any parcel of land is in violation of this ordinance and subject to a fine of Five Hundred
17 Dollars (\$500) for each city tree damaged, in addition to any other penalties or fines
18 applicable under this ordinance.

19 H. Any City department that plans to excavate, cut, or otherwise remove or damage roots
20 within the critical root zone of any city tree shall, where possible, report the scheduled
21 occurrence of such activities forty-eight (48) hours in advance to the Commissioner, who
22 shall review such activities and, if available, offer less damaging alternatives. In the event

1 advance notification cannot be provided, then the Commissioner shall be notified within
2 forty-eight (48) hours of the occurrence of the root damage or removal so an assessment
3 may be performed to determine the health, stability, and safety of the affected tree.

4 **SECTION ELEVEN. Sewer Damage.**

5 A. No city tree shall be removed or otherwise be treated because of sewer related damage
6 allegedly caused by the tree until the Forestry Division has reviewed the matter and
7 approved the appropriateness of such removal or treatment.

8 B. The property owner must prove with satisfactory evidence to the Forestry Division that
9 the city tree caused the damage. Based on the evidence provided by the property owner, a
10 Forestry Division employee shall determine if the city tree is the direct cause of the
11 damage. The presence of roots inside a pipe are not a direct indication that the tree
12 initially caused the damage.

13 C. If the city tree is the direct cause of the damage, then the Forestry Division will remove
14 the tree if safety or stability of the tree or sewer line is in question.

15 D. The Forestry Division employee's decision on fault may be appealed in writing to the
16 Commissioner within ten (10) days of such denial, whose decision shall be final.

17 **SECTION TWELVE. Property Owner's Responsibility.**

18 A. It shall be the duty of property owners to notify the City when any city tree located
19 adjacent to its property is believed to be causing damage to any public sidewalk or shared
20 use path.

1 a. Where damage to a sidewalk or curb occurs due to the close proximity or growth
2 of city tree roots, the Forestry Division shall make every reasonable effort to
3 correct the problem without damaging or injuring the tree.

4 b. In cases where tree removal is necessary, the Forestry Division shall not proceed
5 with removing the tree until they receive confirmation from the Street Division
6 that it has scheduled the repairs, unless the safety or stability of the tree, shrub, or
7 plant is in question, or the need for removal is urgent in the judgment of the
8 Commissioner.

9 B. It shall be the duty of the property owner, in a timely manner, to keep the surface portion
10 of such sidewalk or pedestrian thoroughfare free of seed, leaf, twig, and any other debris
11 created and otherwise dropped by the natural growth of the tree so as to allow the
12 reasonable and safe passage of pedestrian traffic.

13 C. It shall be the duty of the property owner to water the tree for the first three years after it
14 is planted as to give it the best chance of survival.

15 D. It shall be the duty of the property owner to keep private trees trimmed so that the
16 branches thereof shall not be lower than eight (8) feet from the surface of such street or
17 sidewalk.

18 E. The property owner is responsible for any trees in the back easement of a property that
19 were not planted by the Forestry Division.

20 **SECTION THIRTEEN. Mutilation or Theft of Trees, Shrubs, or Plants on City Property.**

21 A. No person shall break, alter, disrupt, or remove any tree, shrub, plant, or any other related
22 vegetative improvement on city property without a prescribed permit to maintain.

- 1 B. The practice of tree topping, defined as the practice of cutting back branches of trees to
2 stubs or lateral branches that are not large enough to assume a terminal role, is prohibited
3 on all city trees. The Commissioner’s determination on whether a tree has been topped or
4 not shall be final.
- 5 C. Lights, lighting devices, electronic devices of any kind, wire, rope, sign, handbill, or any
6 other thing to be attached, hung, or suspended from any tree, shrub, or plant must be
7 installed so as to cause no damage to the tree, shrub, or plant and cannot remain in the
8 tree, shrub, or plant for longer than one hundred twenty (120) days. The person who
9 installed the lights or lighting devices shall be responsible for removing them in a manner
10 least damaging to the tree, shrub, or plant within the prescribed period of time or be
11 deemed in violation of this section. All lights or lightning devices that are in violation of
12 this section are hereby declared public nuisances and subject to treatment and abatement
13 as such by the Commissioner.
- 14 D. No person shall permit any toxic or injurious chemical or substance to seep, drain, or be
15 emptied on or within the critical root zone of any city tree.
- 16 E. Without written permission from the Commissioner, no person shall place or maintain
17 upon the ground any stone, cement, fabric or plastic weed barrier, or other impervious
18 material or substance in such a manner as it may obstruct the free access of air and water
19 within a city tree’s critical root zone. Any stone, cement, or other impervious material
20 placed or maintained in violation of this subsection is hereby declared a public nuisance
21 and subject to treatment and abatement as such by the Forestry Division.

1 F. Without written permission from the Commissioner, it shall be unlawful for any person to
2 install grates or any other covering over the tree box or well of any city tree. Such grates
3 and other coverings shall be considered an extension of the pedestrian walk which they
4 adjoin and are the responsibility of the adjacent property owner to maintain in a condition
5 that is safe for passing pedestrian traffic.

6 a. No person shall maintain a grate or other covering over the tree box or well of any
7 city tree in a condition that is injurious to such tree or to the safety of passing
8 pedestrian traffic. Any grate or other covering found in violation of this section is
9 hereby declared a public nuisance and is subject to treatment and abatement as
10 such by the Commissioner.

11 G. Any person found in violation of any provision of this section shall be subject to a fine of
12 up to five hundred dollars (\$500) per affected tree, in addition to any necessary repair and
13 replacement costs defined in Section Sixteen of this ordinance required to replace or
14 restore the condition of the affected tree, plant, or shrub.

15 **SECTION FOURTEEN. Tree Lawn Planting Requirements and Criteria.**

16 A. Climbing or creeping vegetation growing on any city tree is subject to removal if deemed
17 by the Forestry Division to be detrimental to the tree's continued growth or health.

18 B. If a portion of the tree lawn is concrete, then it shall be considered as part of the
19 pedestrian walkway and treated as such.

20 C. The installation, construction, or erection of raised planters or landscape walls around the
21 trunks of trees after its installation is detrimental to the long term health of trees and is
22 hereby prohibited around any city tree unless approved by the Commissioner. The use of

1 ornamental or landscape edging is prohibited around city trees unless it is located far
2 enough way so as not to cut into the root flare of the tree or restrict or impede its growth,
3 does not extend more than four (4) inches above the soil line at its highest point, and does
4 not entail soil excavation greater than a trench or hole six (6) inches wide and three (3)
5 inches deep as measured from the soil line.

6 **SECTION FIFTEEN. Private Tree Hazards.**

7 A. Any tree in the City determined by the Forestry Division to be:

- 8 a. Dead, defective, diseased, infested, or decayed and threaten real property or users
9 thereof; or
10 b. Allelopathic to adjacent city trees or an alternative host for a tree disease or a
11 habitat or breeding habitat for a tree disease vector; or
12 c. Not grown or otherwise maintained by the property owner to meet all applicable
13 tree clearance standards is hereby declared a public nuisance and subject to
14 treatment and abatement as such by the Forestry Division. The Forestry Division
15 shall be authorized to order the treatment and abatement of any such tree. After
16 thirty (30) days of said order being issued, the Forestry Division may enter upon
17 any lot or parcel of land within the City for the purpose of treating or abating such
18 nuisance and may bill the owner pursuant to Subsection (D) of this Section.

19 B. The Forestry Division shall serve treatment and abatement orders, as authorized in this
20 section, to property owners found in violation of this section by personal service, or by
21 U.S. mail and shall be deemed served twenty-four (24) hours after the mailing of the
22 notice. Such notice shall identify the street address of the property, the problem

1 conditions, and what is required of the property owner to be in compliance with this
2 Section.

3 C. Any notice served to a property owner by the Forestry Division under the provisions of
4 this section may be appealed to the Board of Public Service, whose decision in the matter
5 shall be final. Any appeal from an order of the Forestry Division under this section must
6 be filed within ten (10) days of receipt of such order.

7 D. The Forestry Division shall bill the owner of any lot or parcel of land on which the City
8 or a City contractor abates or treats any tree under the provisions of this section for the
9 cost of such abatement and/or treatment and issue an administrative fine of five hundred
10 dollars (\$500) to the person responsible for the violation.

11 E. Any owner of a lot or parcel of land upon who fails to comply with an order issued from
12 the Forestry Division pursuant to this section within thirty (30) days of receipt of such
13 order violates this section and shall be punishable by a fine of five hundred dollars (\$500)
14 each day until it is abated.

15 F. When the condition of a tree is such that the Forestry Division believes it is in imminent
16 danger of falling or is creating an immediate hazard to the safety of the general public
17 which is too great a risk to leave uncorrected while standard procedures for giving notice
18 are followed, the Forestry Division may, in its discretion enter onto any lot or parcel of
19 land in the City and abate or otherwise remediate the condition without following said
20 procedures.

21 G. Nothing in this ordinance shall be deemed or construed to relieve the owner of any
22 private property from the duty to keep and maintain any tree located on their property in a

1 condition such as to prevent it from becoming a hazard to adjacent private and public
2 property; and to prevent it from becoming a hazard or an impediment to travel or vision
3 upon any street, alley, sidewalk or other public place in the City, or to impose any
4 liability upon the City, its officers or employees in connection with any tree located on
5 private property.

6 **SECTION SIXTEEN. Enforcement and Penalties.**

7 A. The Commissioner shall be responsible for the administration and implementation of this
8 ordinance. They may serve notice to any person in violation thereof and may report
9 violations to the St. Louis Metropolitan Police Department and City Counselor for
10 appropriate proceedings, which are each hereby directed to take all appropriate actions to
11 assist in the enforcement of this ordinance.

12 B. In instances where a person is found to be maintaining, removing, or destroying a city
13 tree in the absence of an appropriate permit for such action in their possession, the St.
14 Louis Metropolitan Police Department shall require such person to cease such operations
15 until the necessary permit and/or certification is obtained pursuant to this ordinance.

16 C. It shall be a violation of this ordinance for any person to impede, hinder, delay, or
17 interfere with the Forestry Division or any person acting under the Commissioner's
18 authority in the administration or enforcement of any provision of this ordinance.

19 D. Except as otherwise provided by this ordinance, any person who violates any provision of
20 this ordinance shall be punishable by a fine of Five Hundred Dollars (\$500) for each
21 offense. All such violations that are of a continuing nature shall constitute a separate
22 offense for each day the violation continues. If, as a result of the violation, the injury,

1 mutilation, or death of a tree located on city property occurs, there shall be a fee of
2 whichever is higher: the appraised replacement value of the tree or the reforestation fee
3 prescribed in Section Nine and when applicable also triple damages under R.S.Mo
4 537.340. All fines are due within thirty (30) days of their issuance.

5 E. The administrative citation fine for repeat violations of the same code provision by the
6 same person at the same property shall be subject to additional fines as the code official
7 deems appropriate, so long as any such fine is assessed thirty (30) days or more after the
8 previous fine date.

9 F. The administrative citation fine shall include the following information:

- 10 a. The date of the violation or, if the date of the violation is unknown, then the date
11 the violation is identified;
- 12 b. The address or a specific description of the location where the violation occurred;
- 13 c. The section of the applicable code violated and a description of the violation;
- 14 d. The amount of the fine for the code violation;
- 15 e. A description of the fine payment process, including a description of the time
16 within which and the place to which the fine shall be paid;
- 17 f. An order prohibiting the continuation or repeated occurrence of the code violation
18 described in the administrative citation;
- 19 g. A description of the administrative citation review process, including the time
20 within which the administrative citation may be contested and the place from
21 which a request for a hearing form to contest the administrative citation may be
22 obtained; and

- 1 h. The name and signature of the citing code official.
- 2 G. Any administrative citation fine paid pursuant to subsection shall be refunded if it is
3 determined, after a hearing, that the person charged in the administrative citation was not
4 responsible for the violation or that there was no violation as charged in the
5 administrative citation.
- 6 H. Payment of a fine under this ordinance shall not excuse or discharge any continuation or
7 repeated occurrence of the code violation that is the subject of the administrative citation.
- 8 I. The administrative fine and reforestation fee shall be paid to the City within thirty (30)
9 days from the date of the administrative citation.
- 10 J. The cost of removal or abatement may be certified by the Forestry Division and
11 submitted to the Office of the Comptroller for issuance of a special tax bill or added to
12 the annual real estate tax bill, to be collected according to and in the same manner as real
13 estate taxes under, Section 67.389 and 71.780 R.S.Mo. These special tax bills or
14 additions to the annual real estate tax bills may not be forgiven except by the City
15 Counselor, who shall, in writing, instruct the Forestry Division to forgive such special tax
16 bills, additions to the annual real estate tax bills, or liens. Further, special tax bills or
17 additions to the annual real estate tax bills shall be permitted to be waived when
18 ownership of said property for which the bill was issued is accepted by the Land
19 Reutilization Authority, Saint Louis Development Corporation, or any other City agency.
- 20 K. The amount of the unpaid administrative fine and reforestation fee may be certified by
21 the Forestry Division and submitted to the Office of the Comptroller for issuance of a
22 special tax bill or judgment lien, to be collected according to and in the same manner as

1 described under Section 479.011.5 R.S.Mo. These special tax bills or judgment liens may
2 not be forgiven except by the City Counselor, who shall, in writing, instruct the Forestry
3 Division to forgive such special tax bills or judgment liens. Further, special tax bills or
4 judgment liens shall be permitted to be waived when ownership of said property for
5 which the bill was issued is accepted by the Land Reutilization Authority, Saint Louis
6 Development Corporation, or any other City agency.

- 7 L. This ordinance should not be construed in any way as in contravention of the duties and
8 powers of the Commissioner relative to the abatement of any matter which may
9 constitute a nuisance, and shall not negate or preclude the availability of any other
10 remedies for violation of any other City of St. Louis Ordinance that might be applicable.

11 **SECTION SEVENTEEN. Administrative Hearing.**

- 12 A. Any recipient of an administrative citation may contest that there was a violation of the
13 code or that they are the responsible party by completing a Request for Administrative
14 Hearing petition and returning it to the Forestry Division, along with a non-refundable
15 filing fee of \$20.00, within thirty (30) days from the date of the administrative citation.
16 Each hearing shall be a contested case and shall adhere to the formal evidentiary rules of
17 Chapter 536.070, R.S.Mo.
- 18 a. A Request for Administrative Hearing petition may be obtained from the Forestry
19 Division
- 20 b. The person requesting the hearing shall be notified of the time and place set for
21 the hearing at least ten (10) days prior to the date of the hearing.

- 1 c. If the code official submits an additional written report concerning the
2 administrative citation to the hearing officer for consideration at the hearing, then
3 a copy of this report also shall be served on the person requesting the hearing at
4 least five (5) days prior to the date of the hearing. The Forestry Division shall
5 designate the hearing officer for the administrative hearing.
- 6 d. A hearing prior to the hearing officer shall be set for a date that is not less than
7 fifteen (15) days and not more than ninety (90) days from the date that the request
8 for hearing is filed in accordance with the provisions of this ordinance.
- 9 e. At the hearing, the party contesting the administrative citation shall be given the
10 opportunity to testify and to present evidence concerning the administrative
11 citation; The party contesting the administrative citation may be represented by
12 counsel at any hearing, though this is not a requirement.
- 13 i. Oral evidence shall be taken only on oath or affirmation;
- 14 ii. Each party shall have the right to call and examine witnesses, to introduce
15 exhibits, to cross-examine opposing witnesses on any matter relevant to
16 the issues, even though that matter was not the subject of the direct
17 examination, to impeach any witness regardless of which party was first
18 called to testify, and to rebut the evidence against them. Any person
19 providing oral testimony shall be subject to cross-examination;
- 20 iii. A party who does not testify in his or her own behalf may be called and
21 examined as if under cross-examination;

- 1 iv. The Forestry Division shall cause all proceedings in hearings before it to
2 be suitably recorded and preserved;
- 3 v. Evidence to which an objection is sustained shall, at the request of the
4 party seeking to introduce the same, or at the instance of the Forestry
5 Division, nevertheless be heard and preserved in the record, together with
6 any cross-examination with respect thereto and any rebuttal thereof, unless
7 it is wholly irrelevant, repetitious, privileged, or unduly long;
- 8 vi. Any evidence received without objection which has probative value shall
9 be considered by the Forestry Division, along with the other evidence
10 presented. The rules of privilege shall be effective to the same extent that
11 they are now or may hereafter be in civil actions. Irrelevant and unduly
12 repetitious evidence may be excluded by the Forestry Division;
- 13 vii. Each party shall be entitled to present written briefs at or after the hearing
14 which shall be read by members of the Forestry Division who render or
15 join in rendering the final decision;
- 16 viii. Each member of the Forestry Division who renders or joins in rendering a
17 final decision shall, prior to such final decision, either hear all the
18 evidence, read the full record including all the evidence, or personally
19 consider the portions of the record cited or referred to in the arguments or
20 briefs.

- 1 f. The failure of any recipient of an administrative citation to appear at the
2 administrative citation hearing shall constitute a failure to exhaust their
3 administrative remedies.
- 4 g. The code violation notice, property record, and related documentation in the
5 proper form, or a copy thereof, shall be prima facie evidence of the municipal
6 code violation. The code official who issued the notice of violation need not be
7 present.
- 8 h. The hearing officer may continue the hearing and request additional information
9 from the code official or the recipient of the administrative citation prior to
10 issuing a written decision.
- 11 i. After considering all of the testimony and evidence submitted at the hearing, the
12 hearing officer shall issue a written decision to uphold or cancel the
13 administrative citation and shall list in the decision the reasons for that decision.
14 The decision of the hearing officer shall be considered the final decision.
- 15 j. If the hearing officer determines that the administrative citation should be upheld,
16 the hearing officer shall set forth in the decision a payment schedule for the fine.
- 17 k. If the hearing officer determines that the administrative citation should be
18 canceled and the fine was deposited with the City, then the City shall promptly
19 refund the amount of the deposited fine, together with interest at the average rate
20 earned on the City's portfolio for the period of time that the fine amount was held
21 by the City.

1 1. The recipient of the administrative citation shall be served with a copy of the
2 hearing officer's written decision.

3 **SECTION EIGHTEEN. Additional Regulations.**

4 A. The Commissioner is authorized to issue regulations as provided by this section. Any
5 such regulations shall be consistent with this ordinance and other applicable law, and
6 shall be subject to approval prior to issuance by the Director and the City Counselor's
7 office. Any such regulations shall be kept on file at the Division's office, in the City
8 Register's office and on the City of St. Louis Website.

9 B. Such regulations may address the following, but are not limited to:

- 10 a. Whether, consistent with sound biological science, any particular type of
11 vegetation shall be classified as a tree for purposes of this ordinance;
- 12 b. Conditions for permits issued pursuant to Section Seven of this ordinance;
- 13 c. Standards for appropriate height and spatial clearances for city trees;
- 14 d. Rules for protection of city trees at construction sites, in addition to the provisions
15 of Section Ten of this ordinance.

16 **SECTION NINETEEN. Collected Funds.**

17 The Comptroller of the City of St. Louis is hereby authorized and directed to establish a Special
18 Account to be known as the Urban Tree Canopy Management Fund in which all funds received
19 pursuant to this ordinance shall be deposited, and such funds shall be kept separate and apart
20 from all other funds. Such funds are hereby appropriated by the Forestry Division for the costs
21 associated with this ordinance and the expansion and maintenance of the Urban Tree Canopy
22 especially in areas with low tree canopy. The fund shall be eligible to accept additional monies

1 from other City appropriations, private donations, or other sources. All interest generated on
2 deposited funds shall be accrued to the Urban Tree Canopy Management Fund. All expenditures
3 from such fund shall be appropriated in accordance with this ordinance and other applicable law.

4 **SECTION TWENTY. Effective Date.**

5 This ordinance shall be in full force and effect from and after the date of its passage and
6 approval, and shall remain in effect until amended or repealed by the Board of Aldermen.

7 **SECTION TWENTY-ONE. Severability.**

8 If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or
9 unenforceable, the remainder hereof shall be valid in all other respects and continue to be
10 effective and each and every remaining provision hereof shall be valid and shall be enforced to
11 the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would
12 have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a
13 further subsequent change in applicable law that renders valid a provision of the Ordinance that
14 was previously held to be invalid or unenforceable, said provision shall thereupon be restored to
15 its full effect, be capable of enforcement without further action by the City, and shall thereafter
16 again be binding.

ORDINANCE #68607
Board Bill No. 336

An ordinance pertaining to the planting, maintenance, preservation and management of trees, shrubs and plants; containing legislative findings and declarations; repealing Ordinances 49772, 56447 and 64804; with definition of terms and administrative, regulatory and penalty provisions; with severability and emergency provisions.

WHEREAS, properly maintained and managed trees, shrubs and plants are natural resources that enhance the quality and aesthetics of the physical environment of the City of St. Louis (the "City") and are essential to the comfort, welfare and health of its citizens;

WHEREAS, Article I Section 1(25) of the City Charter in part empowers the City to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, uses of property and all things whatsoever detrimental to the health, comfort, safety, convenience or welfare of the inhabitants of the city and all nuisances and causes thereof;

WHEREAS, Article I Section 1(33) of the City Charter in part empowers the City to do all things whatsoever expedient for promoting or maintaining the comfort, peace, health, and welfare, of the City or its inhabitants:

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

Section One Purpose and Intent

The Board of Aldermen of the City of St. Louis finds and declares as follows:

1. The planning, development, maintenance and cultivation of a diverse, plentiful and healthy urban forest within the City of St. Louis (the "City") in perpetuity is desirable and in the interest of the health, welfare, comfort and general well being of the City's citizens, because of the positive environmental, social and economic benefits trees provide, such as oxygen production, dust filtration, storm water runoff reduction, pollution absorption, erosion control, phytoremediation, creation and enhancement of recreational spaces, energy cost reduction and the provision of shade.
2. The presence of mature and healthy trees is important in the stabilization and growth of neighborhoods, as attractive tree-lined streets contribute to increased property values and general neighborhood improvements.
3. The presence of trees within the City promotes tourism and commerce because of the positive effect trees have on the appearance and attractiveness of the physical environment of the City.
4. The proper management, care and protection of the City's urban forest requires policies and specifications for the planting, maintenance, preservation and management of trees, shrubs and plants on City property, and in some circumstances on private property, to preserve public safety and prevent or control infectious diseases and insect pests harmful to the tree, shrub and plant population in the City.
5. With proper management, planning and resources the benefits of a diverse, plentiful and healthy urban forest can be fully realized and maintained for the City in perpetuity.
6. The Board of Aldermen finds and declares that:
 - A. this ordinance is a "police power" regulation necessary to protect the public health, safety, welfare and peace;
 - B. the effective administration of this ordinance will entail the exercise from time to time of administrative discretion;
 - C. it is not possible to provide in legislation comprehensive rules for the appropriate exercise of administrative discretion in all circumstances relating to the proper regulation and management of trees, shrubs and plants;
 - D. accordingly, it is appropriate to vest discretion in the Commissioner, as hereinafter defined, and the Division, as hereinafter defined, in circumstances where matters affecting proper selection, location, condition, planting

and removal of trees, shrubs and plants are not expressly addressed by this ordinance, and it is the intent of the Board of Aldermen, to the fullest extent permitted by law, to vest such discretion in the Commissioner and the Division, to be exercised in furtherance of the underlying purpose of this ordinance.

Section Two Existing Ordinance Repeal

Ordinance 49772 and Ordinance 56447, presently codified as Ch. 22.48 of the Revised Code, and Ordinance 64804, are hereby repealed.

Section Three Rules of Construction, Definitions

- (a) In this ordinance:
- (i) The singular number includes the plural number and the plural includes the singular.
 - (ii) Shall is mandatory and may is permissive.
 - (iii) The masculine gender includes feminine and neuter.
- (b) In this ordinance when the following words or phrases are used, they shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:
- (i) *Caliper*: The diameter of a Tree measured at a point 6 inches above ground line if the resulting measurement is no more than 4 inches. If the resulting measurement is more than 4 inches then the measurement is made at a point 12 inches above the ground line.
 - (ii) *City Property*: All real property which is owned, leased or maintained by the City, any part of any right-of-way within the City, other than parks.
 - (iii) *City Tree*: Any Tree found or located on City Property.
 - (iv) *Commissioner*: The Commissioner of Forestry of the City of St. Louis or such Commissioner's designated employee.
 - (v) *Contractor*: A Person acting under a contract or written agreement with the City, the Department of Parks, Recreation and Forestry or the Forestry Division for the performance of an activity or function called for by this ordinance.
 - (vi) *Critical Root Zone*: All or part of a Tree's root system that must remain undisturbed to offer the Tree the best chance for survival. Critical rooting distance shall be determined by multiplying the Tree's diameter in inches at 4.5 feet above soil line by 2.5. For Trees growing in areas that are less than their critical rooting distance the Critical Root Zone is all of the growing area.
 - (vii) *Diameter Breast Height*: The diameter of a Tree measured at 4.5 feet above average grade.
 - (viii) *Director*: The Director of the City's Department of Parks, Recreation and Forestry.
 - (ix) *Division*: The Division of Forestry of the City's Department of Parks, Recreation and Forestry.
 - (x) *Hazard Tree*: A Tree possessing qualities in structure and/or growth that create an unacceptable level of risk to public safety.
 - (xi) *Plant*: Any form or type of vegetation that is not a Tree or Shrub.
 - (xii) *Right-of-Way*: Property located within and adjoining streets, roads and alleys within the City, which is owned, controlled or maintained by the City, including but not limited to areas commonly referred to as "tree lawn" between sidewalks and curbs.

- (xiii) *Shrub*: Any self-supporting multi-stemmed woody plant that attains at maturity a height of 12 feet or less.
- (xiv) *Tree*: Any self-supporting woody plant having a well defined stem, a more or less well defined crown and a mature height of greater than 12 feet and/or a trunk diameter measuring no less than 1.5 inches measured at diameter breast height, or a cluster of main stems having an aggregate diameter of not less than 2 inches in diameter measured at diameter breast height.
- (xv) *Weed*: Any unwanted Plant, Shrub or Tree, which because of its location and/or growth characteristics or habits is commonly considered an undesirable element in the landscape.
- (xvi) *Person*: An individual Person, corporation, association or entity of any kind.

Section Four Applicability/ Park Trees

A. All provisions of this ordinance shall apply to all City Property, except as otherwise provided in this ordinance.

B. Except as otherwise provided in this ordinance, Trees, Shrubs and Plants now or hereafter located on City parks or on other land maintained by the Parks Division of the Department of Parks, Recreation and Forestry shall be controlled and managed by the Parks Commissioner, who shall enforce all applicable provisions of this ordinance as they pertain to such Trees, Shrubs and Plants; provided, however, that the Director may grant the Commissioner of Forestry the authority to assume specific Tree, Shrub and Plant management and maintenance duties in City parks.

Section Five Commissioner of Forestry

- (a) The Division shall be in the charge of a Commissioner appointed by the Director. The Commissioner shall be responsible for planting, trimming and maintaining all City Trees along all public Right Of Way. The Commissioner shall also be responsible, as herein provided, for the planting, maintenance and management of all Trees, Shrubs and Plants located upon City Property, and for developing standard practices and procedures and planting, maintenance and management specifications for the Division to ensure the effective management of Trees, Shrubs and Plants within the City's jurisdiction.

Section Six Administrative Responsibilities

The Commissioner shall:

- (a) keep a record of all transactions of the Division, and whenever the Director may require, make a full detailed report concerning the same in addition to the annual report required by Section 10 of Article VIII of the City Charter.
- (b) be the custodian of records and papers of the Division and prepare and maintain all necessary literature, notifications, and records necessary for the administration of this ordinance.
- (c) prepare and implement a Master Street Tree Planting and Maintenance Plan, consistent with this ordinance, which shall include an inventory of existing City Trees, Tree planting standards, standards for the acceptance of nursery stock and Tree planting recommendations that promote species diversity and a sustainable and healthy urban forest, and procedures and standards required to effectively and safely facilitate all Tree maintenance activities of the Division. Such Plan shall be kept on file at the Division's office and in the City Register's office.
- (d) prepare and implement an Emergency Tree Management Plan, consistent with this ordinance, that shall include procedures and steps for maintaining and restoring the city's urban forest during and following an emergency such as a tornado, thunderstorm, windstorm, ice storm, flood or other act of God. Such Plan shall be kept on file at the Division's office and in the City Register's office.
- (e) develop and maintain a list of equipment and labor costs associated with services provided by the Division for the purposes of assessing penalties as provided for in Section Twenty Five of this ordinance.

Section Seven Employees

(a) The Commissioner is authorized to appoint and control the number of assistants and subordinate employees necessary to perform the duties of the Division, subject to the Civil Service provisions of the City Charter and applicable ordinances.

(b) The Commissioner may designate a deputy to act in the Commissioner's place in the event of the Commissioner's temporary absence from the City.

Section Eight Authority

The Commissioner shall have the power and authority to:

(a) prepare and implement procedures, standards and specifications pertaining to the planting, pruning, removal, disease and insect treatment, protection and other necessary maintenance and management activities of all Trees, Shrubs or Plants planted on City Property.

(b) recommend to the Director possible future ordinance provisions pertaining to Trees, Shrubs and Plants located on private property which would, if enacted, tend to prevent the spread of infectious disease and insect pests harmful to the general health and well being of the entire Tree, Shrub and Plant population within the City and to control and/or abate nuisance and Hazard Trees.

(c) enter upon private property at reasonable hours for the purposes of inspecting Trees thereon, if there is reasonable cause to believe by virtue of its appearance, or otherwise, that a Tree has structural or growth conditions that make it a hazard, or is or may be infected with a infectious disease or vectors that may transmit an infectious disease or an insect pest harmful to the general well being of the entire Tree population in the City. The Commissioner shall have the power and authority to mark or otherwise identify any such Tree and remove any samples or portions thereof for purposes of further diagnosis of any suspected disease or insect problems.

(d) cause Trees on private property to be free of hazards, diseases and insect pests.

(e) cause Trees on private property to be maintained so as to prevent the obstruction of: vehicular or pedestrian traffic, street corners and intersections, alleys, traffic control signs and devices and the safe passage of light as described in Section 15 of this ordinance.

Section Nine Tree Placement and Planting

(a) The Commissioner shall determine, by regulations issued pursuant to section Twenty Seven of this ordinance, and maintain standards for the appropriate Tree species, sizes, spacing and placement on City Property, including a list of undesirable and desirable street Trees, and standards for the minimum size for Tree boxes/wells, and the appropriate spacing distances for existing Trees located on City Property.

(b) The Commissioner shall determine and maintain standards for the acceptance of nursery stock for Trees to be planted or placed upon any Right of Way.

(c) The Commissioner shall inspect and approve all street Trees prior to their planting on any Right of Way.

(d) The Commissioner shall review and approve all plans for the planting of Trees on City or private property by any City department or agency, and for the planting of trees on private property as part of any development project of any kind approved by any City department or agency, including agencies operated by St. Louis Development Corporation.

(e) Any Trees hereafter set out, planted or raised on City Property, which are not consistent with the standards provided for in this section, are hereby declared a public nuisance and subject to treatment and abatement as such.

Section Ten Tree Planting

(a) When in the judgment of the Commissioner it is necessary or desirable that Trees be planted on City Property the Commissioner shall develop and implement such plans as necessary to cause said Trees to be planted. The Commissioner is further authorized to develop programs, policies and procedures to foster and encourage the planting of Trees by city residents, other public agencies and businesses.

(b) The Commissioner shall provide on an annual basis to each alderman an accounting of street Trees removed and planted so as to indicate their net gain or loss within their ward.

(c) The Commissioner shall provide on an annual basis to the Director an accounting of street Trees removed and planted indicating the net gain or loss of City Trees within each ward of the city and the net gain or loss of City Trees within the City as a whole.

(d) Whenever the Division shall remove any City Tree , the Division shall plant a new City Tree not less than 2.5 inches in caliper size to replace the removed City Tree. When site conditions permit, the replacement City Tree shall be planted within 500 feet of the site of the removed Tree. If a suitable planting location cannot be found within 500 feet of the removal location, the replacement City Tree shall be planted at another location determined by the Commissioner within the ward where the removal occurred. The cost of such replacement City Trees shall be charged by the Commissioner to the tree planting or similar account of the alderman of the ward where the removal occurred, unless otherwise provided by this ordinance.

Section Eleven *Permit Required to Plant*

(a) No Person shall plant, transplant, relocate or replace any Tree on City Property without first obtaining a permit (“Permit to Plant”) from the Commissioner. This section shall not apply to planting or reforestation activities of the Division or Contractors.

(b) The Commissioner shall develop policies and procedures for the Division to cause the efficient and equitable issuance of Tree planting permits under the provisions of this section.

(c) Work done under any Permit to Plant permit must be done in compliance with any other applicable sections of this ordinance.

(d) Any Permit to Plant shall specify the species and size of each Tree to be planted.

(e) Permits to Plant Trees larger than 4 inches in caliper size shall expressly provide, as a condition of the issuance of the permit to plant, that the permittee will pay replacement and associated replacement costs for a period of 5 years after planting.

(f) Any and all Trees hereafter set out, planted or raised upon City Property in violation of this Section are hereby declared a public nuisance and subject to treatment and abatement as such.

Section Twelve *Permit to Maintain Required*

(a) No Person shall directly or indirectly perform maintenance, including but not limited to pruning, spraying or removal, on any City Tree without first obtaining a permit (“Permit to Maintain”) from the Commissioner. This section shall not apply to Tree maintenance activities performed by the Division or by Contractors, or by or on behalf of any City department or agency.

(b) The Commissioner shall develop policies and procedures for the Division to cause the efficient and equitable issuance of Permits to Maintain under this section.

(c) A Permit to Maintain shall only be valid for a period of time specified by the Division..

(d) The Commissioner may issue Permits to Maintain without formal application in order to avoid danger or hazard to Persons or property in emergency situations requiring immediate maintenance of a City Tree; provided, that a formal application shall be filed within seventy-two hours of starting such emergency action. If in such an emergency the Commissioner or a representative of the Division cannot be reached, it shall be lawful to perform the necessary emergency maintenance required; provided, the Person performing such emergency maintenance shall report such action to the Commissioner within seventy-two hours of starting such maintenance.

(e) Any application for a Permit to Maintain shall identify the Person performing the work, and only that Person may perform the work authorized by the permit. If after a Permit to Maintain is issued the identity of such Person changes, the permit holder shall contact the Division for approval to amend the permit within forty-eight hours prior to the start of the work, or immediately if the change occurs after work has begun.

(g) The Commissioner may issue a general Permit to Maintain Trees to public and private utility companies for a period not to exceed two years; provided the company's pruning or maintenance specifications comply with all other provisions of this ordinance and other applicable rules and regulations; and provided that the removal of any City Tree shall be specifically approved in advance in writing by the Commissioner. Pruning of branches of City Trees under such a permit shall be done in accordance with the most recent edition of American National Standard Institute for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance Standard Practices (Pruning) (ANSI A300 Part 1).

Section Thirteen *Permit Conditions, Denial and Revocation*

The Commissioner shall :

(a) establish , by regulation pursuant to section Twenty Seven of this ordinance, reasonable conditions on which Permits to Plant or Maintain are to be issued, performed and completed.

(b) deny the issuance of any permit under any section of this ordinance if, in his judgment, issuing said permit is not in the best interest of the City in the maintenance, preservation, sustainability and/or health of its urban forest. The Commissioner's decision to deny an issuance of a permit may be appealed in writing within 10 days of such denial to the Director, whose decision shall be final.

(b) The Commissioner may suspend or revoke any permit should the permittee at any time fail to comply with the conditions of the permit. Upon suspension all work must cease until the conditions of the permit are met.

(c) A permittee who fails to comply with the conditions of a permit shall be deemed in violation of this section and subject to the penalties prescribed in Section Twenty Five A, and to any repair and replacement costs defined in Section Twenty Five B of this ordinance required to repair, replace or restore any element or feature of landscape, hardscape or infrastructure.

(f) Any Person performing work under a permit shall have in their possession and produce upon request by the Commissioner all licenses to operate within the city required by law or other applicable ordinances.

(g) Any permittee assumes all liability and risk relating to or arising out of any work performed or undertaken under a permit, and all permits shall expressly so provide, and shall further provide that the permittee agrees to indemnify the City for claim, liability or damage which the City may incur as a result of the issuance of the permit or any action or omission under the permit.

(h) Any Person found by the Commissioner to have knowingly falsified or concealed information on a permit application shall have their permit application denied, or, if a permit has been issued it shall be revoked. Any such falsification or concealment is a violation of this ordinance.

Section Fourteen *Permit Fees*

(a) There shall be no fee for a Permit to Plant, or for a Permit to Maintain which does not involve removal of a City Tree.

(b) The Commissioner shall assess, for the privilege of removing a City Tree, a reforestation fee for each City Tree approved for removal on a Permit to Maintain application, as provided in this Section. The Commissioner may waive such fee for good cause.

(c) The reforestation fee for removal of Trees shall be determined as follows:

i) for Trees less than 8 inches in size at diameter breast height, the fee shall be the retail cost to the Forestry Division to purchase a Tree of 2.5 to 3 inches in caliper size of similar canopy type of the tree removed.

ii) for Trees that exceed 8 inches in size at diameter breast height, the fee shall be the retail cost to the Forestry Division to purchase a Tree of 2.5 to 3 inches in caliper size of similar canopy type of the tree removed plus the cost to purchase an additional tree 2.5 to 3 inches in caliper size for every additional 6 inches of size at diameter breast height. For example, the reforestation fee for removal of a tree 20 inches in diameter breast height would be the cost of 3 trees as provided in this sub-paragraph.

iii) Multi-stemmed trees shall have the aggregate diameter of each of their trunks used in determining their size.

(d) The Commissioner shall maintain a current schedule of such retail costs and current values in the Division office and available to the public.

(e) Permit to maintain applications that will involve the removal of Trees shall be accompanied by the applicable reforestation fee, in full. The reforestation fee must be paid in full to the Commissioner before a Permit to Maintain will be issued pursuant to Section Twelve of this ordinance. The Commissioner shall have the authority to waive the reforestation fees in his discretion, for example for the removal of Trees in poor condition or of species that are considered undesirable or poorly located.

Section Fifteen *Tree Clearance Requirements*

(a) The Commissioner shall determine and maintain standards for appropriate height and spatial clearances for all City Trees so as to allow the safe use or occupancy of the space around said Tree. Such standards shall include, but not be limited to, height and spatial clearances for streets, sidewalks, alleys, building and other structures, traffic control signs and devices, street and alley lights, public utility wires and intersections and intersection approaches.

(b) The Commissioner shall determine and maintain standards for the growth and maintenance of Trees, Shrubs and Plants located on any lot or parcel or land within the City so as to prevent the obstruction of vehicular or pedestrian traffic, street corners, intersections and intersection approaches, traffic control signs and devices and the safe passage of light.

(c) The Commissioner shall perform maintenance of Trees, Shrubs and Plants on City Property for clearance in a manner consistent with the most widely accepted arboricultural practices.

(d) In the event a standard provided under this Section is changed, for purposes of contracts, the applicable standard in effect at the time a contract was made shall be used during the term of the contract.

Section Sixteen *Tree Preservation and Replacement*

(a) It is the policy of the City:

(i) to suffer no net loss in the population and canopy of the urban forest under its jurisdiction, as such losses would be detrimental to the health, welfare, comfort and general well being of City residents by reducing the benefits provided by the city's urban forest;

(ii) to preserve City Trees whenever possible during development and land improvement by using the most appropriate and feasible arboriculturally sound methods to preserve City Trees from injury and damage; and, where City Trees cannot be preserved during development or land improvement, to plant appropriate replacement City Trees as prescribed by this ordinance; and

(iii) to increase and expand the population and canopy of the urban forest under its jurisdiction by planting new City Trees whenever possible to increase the total benefit provided by the City's urban forest.

(b) Any Person issued a building permit shall be responsible for complying with this section; provided, that fees required for a Permit to Maintain for the removal of any City Tree shall be the responsibility of the Person making application for said permit. In the event a building permit is not issued for work which may affect City Trees then the property owner shall be responsible for complying with all provisions of this section.

(c) Any Person employed, contracted or otherwise working on behalf of the City shall be subject to all applicable provisions of this section.

(d) A Permit to Maintain for removal of a City Tree as a result of the demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land in the City must be issued pursuant to Section Twelve of this ordinance before such Tree can be removed by any Person, including persons employed, contracting with or otherwise working on behalf of the City and all conditions and fees as prescribed in Sections Thirteen and Fourteen of this ordinance shall apply. Any Person who removes or causes to have removed a City Tree without the prescribed Permit to Maintain shall be deemed in

violation of this section and subject to a Five Hundred Dollar fine for acting without a required permit, and to an additional fine for destruction of City property equal to the applicable reforestation fee under Section Fourteen (a), (b) or (c) and any replacement and repair costs as determined by Section Twenty Five of this ordinance, up to a maximum of Five Hundred Dollar for each Tree regardless of their actual health and desirability at the time of their removal.

(e) All reasonable steps shall be taken to prevent destruction of or damage to City Trees (other than City Trees approved for removal), during the improvement, demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land in the City. Such steps include, but are not limited to the following Tree preservation activities:

(i) The placing of protective fencing at the boundary or limits of the established Critical Root Zone of each City Tree that has been determined by the Commissioner to have the potential of being injured during construction or, in the absence of such determination by Commissioner, within the area of construction. Such protective fencing shall be installed before construction of any type is to begin, with a minimum height of at least 4 feet and installed in such a manner that it maintains its rigidity and effectiveness as a barrier.

(ii) Construction equipment, trailers, traffic and storage must remain outside of the Critical Root Zone of any City Tree.

(iii) No materials, equipment, spoil, or waste or washout water may be deposited, stored or parked within the Critical Root Zone of any City Tree.

(iv) Erosion control devices such as silt fencing, debris basins and water diversion structures shall be installed in such a manner to prevent siltation and/or erosion within Critical Root Zone of any City Tree.

(v) Spoil from trenches, basements, or other excavations shall not be placed within the Critical Root Zone of any City Tree, either temporarily or permanently.

(vi) No burn piles or debris pits shall be placed within the Critical Root Zone of any City Tree.

(vii) No ashes, garbage or debris may be dumped or buried within the Critical Root Zone of any Tree.

(viii) Any herbicides placed under paving materials must be safe for use around Trees and labeled for that use and not be readily transported by water.

(ix) Any brush clearing required within the Critical Root Zone of any City Tree shall be accomplished using hand-operated equipment and approved by the Commissioner. (x) City Trees shall be root pruned before grading, pad preparation or excavation for foundations or walls or utility trenching occurs. Root pruning requires a Permit to Maintain applied for and issued in accordance with Section Twelve and any other applicable section of this ordinance. Roots shall be root pruned to 1 foot outside of their Critical Root Zone and cut cleanly using either manual or mechanical methods such as chainsaws, vibrating knife, rock saw, narrow trencher or other root pruning equipment approved by the Commissioner. The use of any type of equipment that otherwise tears, rips or pulls roots is not permissible.

(xi) All underground utilities and drain or irrigation lines shall be routed around the Critical Root Zone of City Trees. If underground utilities must pass through a Critical Root Zone, they shall be tunneled or bored under the Tree for the duration of the Critical Root Zone, unless deemed unreasonable do so by the Commissioner.

(xii) City Trees shall not be pruned or otherwise maintained in any manner without a Permit to Maintain first being applied for and issued pursuant to this ordinance.

(f) The Commissioner by regulation issued pursuant to Section Twenty Seven of this ordinance may provide other practices and specifications necessary to effectively preserve City Trees at construction sites.

(g) Prior to the start of construction any Person may request the Commissioner to waive of any provisions of subsection (e) of this section which they feel are unreasonable or impose undue financial hardship in the completion of construction. No waiver request made after the start of construction may be granted. The Commissioner's decision on any such waiver request shall

be final.

(h) The Commissioner is authorized to issue an emergency stop work order for up to seventy-two hours if in the Commissioner's opinion the precautions required by subsection (e) of this section were not undertaken before construction commenced or are not maintained at any time during construction. The Commissioner may rescind such order within twenty-four hours if the violations for which the order was issued is remedied. If the violations are not corrected within twenty-four hours after issuance of the stop work order and the project is supervised by the Board of Public Service, the Commissioner may request the Board of Public Service to issue a permanent stop work order. Penalties, if any, levied by the Board of Public Service shall be in addition to all fines and penalties imposed and prescribed by this ordinance. The Board of Public Service may issue a stop work order at any time of its own volition to any Person that fails to comply with any requirement of subsection (e) of this Section, until such provisions are met, or may issue a permanent stop work order.

(i) Failure to obtain any permit required by this Section, or to take any precaution as prescribed in this Section, before construction commences or at any time during construction, is a violation of this ordinance and punishable by a fine of Two Hundred Fifty Dollars for each precaution not undertaken or maintained, in addition to any other applicable fine under this ordinance.

(j) Failure to stop work upon issuance of an emergency stop order by the Commissioner or a stop work order by the Board of Public Service is a violation of this ordinance and punishable by a fine of Five Hundred Dollars, in addition to any other fines or penalties prescribed by this ordinance. Each full hour that work continues after the issuance of a stop work order is a separate violation.

(k) Any Person who damages any City Tree, Shrub or Plant during construction, demolition, renovation, improvement or erection of any building or outbuilding or any type of improvement on any parcel of land is in violation of this ordinance and subject to a fine of Two Hundred Fifty Dollars for each City Tree, Shrub or Plant damaged, in addition to any other penalties or fines applicable under this ordinance.

(l) Any City department that plans to excavate, cut or otherwise remove or damage roots within the Critical Root Zone of any City Tree shall, where possible report the scheduled occurrence of such activities forty-eight hours in advance to the Commissioner, who shall review such activities and if available offer less damaging alternatives. In the event advance notification cannot be provided, then the Commissioner shall be notified within forty-eight hours of the occurrence of the root damage or removal so an assessment can be performed to determine the health, stability and safety of the affected Tree.

Section Seventeen *Sewer Damage*

(a) No City Tree shall be removed or otherwise be treated because of sewer related damage allegedly caused by such Tree until the Commissioner has reviewed the matter and approved the appropriateness of such removal or treatment.

(b) No City Tree shall be considered for removal by the Commissioner until the alleged sewer related damage is substantiated by the submission of paid bills or receipts by the property owner requesting the removal. Any such bills or receipts must be determined by the Commissioner to be directly attributable to root related damage. Any Person who knowingly falsifies or submits fraudulent bills or receipts is in violation of this ordinance.

(c) The Commissioner may waive the requirements of subsection (b) of this Section of this ordinance if the Tree has been listed as undesirable for street Tree use under this ordinance or is determined by the Commissioner to be in an unsafe and/or unhealthy condition.

(d) Each City Tree removed for sewer related damage shall be replaced with three Trees with a caliper size of no less than 2.5 inches per Tree. The species of such replacement Trees shall be determined by the Commissioner. The Commissioner, where site conditions permit, shall plant a replacement Tree at the site where the Tree was removed and two additional Trees at locations of his choosing within the ward where the Tree removal occurred. If the site of the Tree removal is not suitable for a replacement Tree then a replacement Tree shall be planted at a location within the ward where the removal occurred, as determined by the Commissioner. The cost of said replacement Trees shall be charged by the Commissioner to the Tree planting account or similar account of the alderman of the ward where the removal occurred.

(e) The Commissioner shall not proceed with the removal of any Tree for sewer related damage until sufficient funds are available for replacement Trees pursuant to Subsection (d), unless the safety or stability of the Tree is in question, or the need for removal is urgent in the judgment of the Commissioner.

Section Eighteen Sidewalk Damage

(a) It shall be the duty of property owners to notify the City when any City Tree located street adjacent to their property is believed to be causing damage to any public sidewalk or other pedestrian thoroughfare. It shall further be the duty of the property owner, in a timely manner to keep the surface portion of such sidewalk or pedestrian thoroughfare free of seed, leaf, twig and any other debris created and otherwise dropped by the natural growth of the Tree so as to allow the reasonable and safe passage of pedestrian traffic.

(b) Where damage to a sidewalk or curb occurs due to the close proximity or growth of City Tree roots, the Division shall make every reasonable effort to correct the problem without damaging or injuring the Tree.

(c) In cases where Tree removal is necessary, the Commissioner shall not proceed with removing the Tree until he receives confirmation from the Street Division that it has scheduled the repairs, unless the safety or stability of the Tree, Shrub or Plant is in question, or the need for removal is urgent in the judgment of the Commissioner.

(d) Each Tree removed on City Property for sidewalk related damage shall be replaced with three (3) Trees with a caliper size of no less than 2.5 inches per Tree. The species of such replacement Trees shall be at the determination of the Commissioner. The locations of such replacement Trees shall be determined in like manner as are the locations of replacement trees under Section Seventeen (d). The cost of said replacement Trees shall be charged by the Commissioner to the Tree Planting account or similar account of the alderman of the ward where the removal occurred.

(e) The Commissioner shall not proceed with the removal of any Tree for sidewalk related damage until sufficient funds are available for replacement Trees pursuant to subsection (d) of this Section, unless the safety or stability of the Tree is in question, or the need for removal is urgent in the judgment of the Commissioner.

Section Nineteen Mutilation or Theft of Trees, Shrubs or Plants on City Property

(a) No Person shall break, mutilate, injure, poison, destroy, remove or otherwise alter or disrupt any Tree, Shrub or Plant or any other related vegetative improvement on City Property.

(b) The practice of Tree topping, defined as the practice of cutting back branches of Trees to stubs or lateral branches that are not large enough to assume a terminal role, is prohibited on all City Trees. The Commissioner's determination on whether a Tree has been topped or not shall be final.

(c) Except as provided in this section, no Person shall fasten or attach any wire, rope, sign, handbill or other thing to any Tree, Shrub or Plant growing on City Property, nor to any guard or protection of such Tree, Shrub or Plant.

(d) No Person shall without written permission of the Commissioner attach any wire, insulator or support device of any nature used for telecommunications or electric transmission or distribution to any Tree, Shrub or Plant growing on City Property.

(e) No Person shall without written permission of the Commissioner attach, hang or suspend lights or lighting devices of any kind to any Tree, Shrub or Plant growing on City Property.

(f) Lights or lighting devices of any kind which the Commissioner permits to be attached, hung or suspended from any Tree, Shrub or Plant must be installed so as to be least damaging to the Tree, Shrub or Plant as prescribed by the Commissioner and cannot remain in the Tree, Shrub or Plant for longer than one hundred twenty days. The Person permitted to install the lights or lighting devices shall be responsible for removing them in a manner least damaging to the Tree, Shrub or Plant within the prescribed period of time or be deemed in violation of this section.

(g) All lights or lighting devices that are in violation of this section are hereby declared public nuisances and subject to treatment and abatement as such by the Commissioner.

(h) Any Person having any wire charged with electricity shall securely fasten the same so that such wire shall not come in contact with any Tree, Shrub or Plant growing on City Property.

(i) No Person shall permit any toxic or injurious chemical or substance to seep, drain or be emptied on or within the Critical Root Zone of any City Tree.

(j) Without written permission from the Commissioner, no person shall place or maintain upon the ground any stone, cement or other impervious material or substance in such a manner as may obstruct the free access of air and water within a City Tree's Critical Root Zone. Any stone, cement or other impervious material placed or maintained in violation of this subsection is hereby declared a public nuisance and subject to treatment and abatement as such by the Commissioner.

(k) Without written permission from the Commissioner, it shall be unlawful for any Person to install grates or any other covering over the tree box or well of any City Tree. Such grates and other coverings shall be considered an extension of the pedestrian walk which they adjoin and are the responsibility of the adjacent property owner to maintain in a condition that is safe for passing pedestrian traffic.

(l) No person shall maintain a grate or other covering over the tree box or well of any City Tree in a condition that is injurious to such Tree or to the safety of passing pedestrian traffic. Any grate or other covering found in violation of this section is hereby declared a public nuisance and is subject to treatment and abatement as such as by the Commissioner.

(m) Any Person who violates subsection (b) of this section shall be subject to a fine of Five Hundred Dollars per affected Tree. Any Person found in violation of any other provision of this section shall be subject to the a fine of up to \$500, including and any necessary repair and replacement costs defined in Section 25 of this ordinance required to replace or restore the condition of the affected Tree, Plant, Shrub or landscape.

Section Twenty Treelawn and Parkway Planting Requirements and Criteria

(a) The appearance and maintenance by adjacent owners of those portions of street rights of way in the City, commonly referred to as the tree lawn, have a substantial impact on the appearance of city neighborhoods and streets and a significant relationship to property values. Deterioration of street landscapes occurs when inappropriate Plants and landscape items are installed that are incompatible with the landscape of a given area, neighborhood or business district or are not, or cannot be, maintained to acceptable standards of appearance. This results in a reduction of property values, poor appearance and the impairment of the public health, safety and welfare. Therefore, the City declares it has a governmental interest in regulating the types of vegetation and landscape items installed in its street right of way and may establish criteria for the maintenance of said items. Provided, this Section shall not apply to the Division or to Contractors.

(b) Shrubs, Plants and other landscape features or items now or hereafter growing or set out, placed, planted or raised in the right of way of any street or alley and on all City Property by any Person other than the City, that are in violation of the provisions of this section are hereby declared public nuisances and subject to treatment and abatement as such. The Commissioner is hereby authorized to remove, trim or otherwise treat any Shrub, Plant or landscape feature or item found in violation of this section without warning or notification.

(c) The City, its officers and employees shall have no liability for landscape features, Shrubs, Plants or other items placed or otherwise installed in or on any City Property by any Person not acting under the authority of a permit or on behalf of the City to install said items. The Person installing said items assumes all responsibility and liability for their maintenance and upkeep unless otherwise provided by ordinance, contract or other agreement.

(d) Fire hydrants shall have a clear area established around them which shall consist of a circle 4 feet in radius measured from the center point at the top of the hydrant and 6 feet in height as measured upwards from the highest point of ground immediately adjacent to the hydrant. Vegetation of any type that is intended to be grown or otherwise maintained at a height that exceeds twelve inches shall not be planted or otherwise maintained in such clear area. In addition, a clear unobstructed field of vision of not less than thirty degrees from each side of a perpendicular line drawn from the top of the fire hydrant to the nearest curb or street line must also exist. Vegetation adjacent to the clear area prescribed in this sub-section shall be maintained in such a way that it does not overgrow or otherwise overhang into such clear area.

(e) Water meter pits, vaults and service shutoffs shall have a clear area established around them which shall consist of a circle two feet in diameter measured from the center of the pit, vault or valve and extending six feet in height as measured upwards from the highest point of ground immediately adjacent to the pit, vault or valve. Vegetation of any type that is intended to be grown or otherwise maintained at a height that exceeds twelve inches shall not be planted or otherwise maintained in such clear area. Vegetation adjacent to such clear area shall be maintained in such a way that it does not overgrow or otherwise overhang into such clear area.

(f) The placement of any Shrubs, Plants or landscape features or items with a maintainable mature height of more

than twelve inches is prohibited within fifteen feet from any street corner.

(g) Street light poles, public utility poles, traffic signals and street signs of any type shall be kept free of all climbing or creeping vegetation.

(h) Climbing or creeping vegetation growing on any City Tree is subject to removal if deemed by the Commissioner to be detrimental to the Tree's continued growth or health.

(i) Any Tree, Shrub or Plant that is known to possess features or growth characteristics that make all or parts of them poisonous, allergenic or invasive in nature shall be subject to immediate destruction and removal by the Commissioner and shall be prohibited from use on any City Property. Such vegetation shall include but is not limited to *Cirsium arvense* (Canada thistle), *Convolvulus arvensis* (Field bindweed), *Sorghum halepense* (Johnsongrass), *Pueraria lobata* (kudzu), *Rosa multiflora* (Multiflora rose), *Lythrum salicaria* (purple loosestrife), *Dipsacus fullonum* (Common teasel), *Dipsacus laciniatus* (Cutleaf teasel), *Carduus nutans* (Musk thistle), *Onopordum acanthium* (Scotch thistle), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's honeysuckle), *Lonicera maackii* (Amur honeysuckle), *Alliaria petiolata* (Garlic mustard), *Toxicodendron Radicans* (Poison ivy), *Toxicodendron diversilobum* (Poison oak), *Xanthium sp.* (Cocklebur), *Datura stramonium* (Jimsonweed) and any Tree, Shrub or Plant that is determined by the Commissioner to be alleopathic to adjacent City Trees, Shrubs or Plants, diseased or infested, an alternative host for a Tree, Shrub or Plant disease or habitat for a Tree, Shrub or Plant disease vector.

(j) Any Person who installs any Tree, Shrub or Plant in violation of subsections (d) through (i) of this Section shall be subject to a fine of One Hundred Dollars for each Tree or Shrub planted in addition to removal, replacement or remediation costs as provided for in Section Twenty-Five of this ordinance.

(k) The installation, construction or erection of raised planters or landscape walls around the trunks of Trees after their installation is detrimental to the long term health of Trees and is hereby prohibited around any City Tree unless approved by the Commissioner. The use of ornamental or landscape edging is prohibited around City Trees unless it is located far enough way so as not to cut into the root flare of the Tree or restrict or impede its growth, does not extend more than four inches above the soil line at its highest point, and does not entail soil excavation greater than a trench or hole six inches wide and three inches deep as measured from the soil line.

(l) Any person wishing to install, place, or construct any non-vegetative landscape feature or item, including but not limited to raised planters, retaining walls, decorative or ornamental rocks, fencing or any kind of landscape rock within any street or alley right of way in the City shall first obtain a Landscape Permit from the Commissioner authorizing such items.

(m) Any Person wishing to install and plant a "Landscape Bed", hereby defined as a grouping of Plants of similar or dissimilar type in an area of landscape that is more or less continuous in nature and greater than nine square feet in size in any street or alley right of way in the City, shall first obtain a Landscape Permit authorizing such bed from the Commissioner.

(n) The issuance of Landscape Permits under this Section shall be in accordance with any applicable provisions of Section Thirteen of this ordinance.

(o) Any Person that fails to obtain a Landscape Permit as required by subsection (m) of this Section commits a violation of this ordinance punishable by a fine of One Hundred Dollars plus any removal, replacement or remediation costs as provided for in Section Twenty-Five of this ordinance.

(p) The disturbance of the Critical Root Zone of any City Tree, with the exception of Trees already planned or otherwise authorized for removal by the Commissioner, by any tillage method, hand or mechanical, for the purpose of installing landscape Plants, features or items is prohibited, unless expressly approved and monitored by the Commissioner.

Section Twenty-One Private Tree Hazards

Any Tree in the City determined by the Commissioner to be:

- (i) dead, defective, diseased, infested or decayed and to threaten real property or users thereof; or
- (ii) alleopathic to adjacent City Trees or an alternative host for a Tree disease or a habitat or breeding habitat for a Tree disease vector; or

(iii) not grown or otherwise maintained by the property owner to meet all applicable Tree clearance standards provided for by Section Fifteen of this ordinance is hereby declared a public nuisance and subject to treatment and abatement as such by the Commissioner. The Commissioner shall be authorized to order the treatment and abatement of any such Tree. After thirty days of said order being issued the Commissioner may enter upon any lot or parcel of land within the City for the purpose of treating or abating such nuisance and may bill the owner pursuant to Subsection (t) of this Section.

(b) The Commissioner shall serve treatment and abatement orders, as authorized in this section, to property owners found in violation of this section by personal service, or by U. S. mail to the person to whom was sent the tax bill for general taxes for the preceding year, or to the current owner of record. Such notice shall identify the street address of the property, the problem conditions, and what is required of the property owner to be in compliance with this Section and/or Section Fifteen.

(c) Any notice served on a property owner by the Commissioner under the provisions of this section may be appealed to the Board of Public Service whose decision in the matter shall be final. Any appeal from an order of the Commissioner under this section must be filed within ten days of receipt of such order on such forms as may be determined by the Commissioner and approved by the Board of Public Service.

(d) The Commissioner shall bill the owner of any lot or parcel of land on which the City or a City contractor abates or treats any Tree under the provisions of this section for the cost of such abatement and/or treatment. Any such bill issued by the Commissioner pursuant to this section of ordinance that is unpaid ninety (90) days after it is first mailed may be sent to a collection agency for collection and shall bear interest at the rate allowed by law for judgment in civil actions.

(e) All monies collected as provided in subsection (d) of this section shall be transmitted daily to the Treasurer of the City of St. Louis in the form and manner prescribed by the Comptroller.

(f) When the condition of a Tree is such that the Commissioner believes it is in imminent danger of falling or is creating an immediate hazard to the safety of the general public which is too great a risk to leave uncorrected while standard procedures for giving notice are followed, the Commissioner may, in his discretion enter onto any lot or parcel of land in the City and abate or otherwise remediate the condition without following said procedures.

(i) Any owner of a lot or parcel of land upon who fails to comply with an order issued from the Commissioner pursuant to this section within thirty days of receipt of such order violates this section and shall be punishable by a fine of Two Hundred Fifty Dollars.

Section Twenty-Two *Private Tree Disclaimer*

Nothing in this ordinance shall be deemed or construed to relieve the owner of any private property from the duty to keep and maintain any Tree located on their property in a condition such as to prevent it from becoming a hazard to adjacent private and public property; and to prevent it from becoming a hazard or an impediment to travel or vision upon any street, alley, sidewalk or other public place in the City, or to impose any liability upon the City, its officers or employees in connection with any Tree located on private property.

Section Twenty-Three *Enforcement*

(a) The Commissioner shall be responsible for the administration and implementation of this ordinance. He may serve notice to any Person in violation thereof and may report violations to the police department and City Counselor for appropriate proceedings, which are each hereby directed to take all appropriate actions to assist in the enforcement of this ordinance.

(b) In instances where a Person is found to be maintaining or removing or destroying a City Tree in the absence of an appropriate permit for such action in their possession, the police department shall require such Person to cease such operations until the necessary permit and/or certification is obtained pursuant to this ordinance.

Section Twenty-Four *Interference*

It shall be a violation of this ordinance for any Person:

(a) to impede, hinder, delay or interfere with the Commissioner or the Division or any person acting under the

Commissioner's authority in the administration or enforcement of any provision of this ordinance.

(b) to impede, hinder, delay or interfere with the Commissioner or his subordinates while engaged in the planting, pruning, spraying, cultivating, maintaining or removal of any Tree, Shrub or Plant located on City Property.

(c) to impede, hinder, delay or interfere the Commissioner or his subordinates from entering onto private property for the purposes of carrying out their lawful duties under this ordinance.

(d) to impede, hinder, delay or interfere with a Contractor in the fulfillment of his contractual obligations for the planting, pruning, spraying, cultivating, maintaining or removal of any Tree, Shrub or Plant located on City Property.

(e) to impede, hinder, delay or interfere with a Contractor in the fulfillment of his contractual obligations from entering onto private property for the purposes of carrying out his lawful duties.

Section Twenty-Five *Penalty/ Replacement and Repair Costs*

(a) Except as otherwise provided by this ordinance, any Person who violates any provision of this ordinance shall be punishable by a fine of not less than One Hundred Dollars and not exceeding Five Hundred Dollars or by imprisonment up to thirty (30) days, or both such fine and imprisonment for each separate offense. All such violations that are of a continuing nature shall constitute a separate offense for each day the violation continues. If, as a result of the violation, the injury, mutilation or death of a Tree, Shrub or Plant located on City Property occurs, the cost of the repair and/or replacement as provided in subsection (b) of this section shall be included in the calculation of the fine, up to the maximum of Five Hundred Dollars.

(b) Where this ordinance provides that the replacement and repair costs for Trees, Shrubs or Plants shall be assessed as a fine or penalty, said costs shall be calculated by the Commissioner as follows:

(i) Replacement and repair costs for Trees less than 10 inches in size at diameter breast height or with an aggregate diameter of less than 15 inches at diameter breast height shall be the retail price of a similar or same sized and species Tree plus the equipment and labor costs required by the Division or any Contractor or Person acting on behalf of the Division to remove and replace said Tree.

(ii) Replacement and repair costs for Trees that exceed 10 inches in size at diameter breast high or with an aggregate diameter of larger than 15 inches shall be their value, as determined using the most recent edition of the Guide for Plant Appraisal as prepared by the Council of Landscape Appraisers, plus the equipment and labor costs required by the Division or any Contractor or Person acting on behalf of the Division to remove and replace said Tree.

(iii) Costs to repair or remediate Tree, Shrub or Plant damage and/or the repair, replacement or restoration of any element or feature of landscape, hardscape or infrastructure shall be determined based upon the equipment, labor and material costs for the Division and/or other City Departments or public agencies required to perform said services or the equipment, labor and material costs of any Contractor performing such services.

(iv) Shrubs and Plants shall have their value determined by the retail price of a Shrub or Plant of a similar size and species, plus the equipment and labor costs required to remove and replace said Shrub or Plant by the Division or by a Contractor.

(a) (v) In lieu of prosecution for a violation of this ordinance, the Commissioner is authorized to bill any Person who causes expense to the City as calculated under this Section, and to refer such bill which is unpaid ninety days after it is first mailed to a collection agent for collection, subject to applicable law.

Section Twenty-Six *Injunctive Relief*

(a) Whenever there exists reasonable cause to believe that any Person is violating any provision of this ordinance or any term, condition or provision of an approved permit, the City may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute an action for a mandatory or prohibitory injunction and/or an order of abatement as the City deems appropriate in the circumstances. Injunctive relief under this section shall not relieve any Person from any otherwise applicable fine or penalty.

Section Twenty-Seven *Regulations*

(a) The Commissioner is authorized to issue regulations as provided by this section. Any such regulations shall be consistent with this ordinance and other applicable law, and shall be subject to approval prior to issuance by the Director, the Board of Public Service and the City Counselor's office. Any such regulations shall be kept on file at the Division's office and in the City Register's office.

- (b) Such regulations may address the following matter or subjects:
- i) whether, consistent with sound biological science, any particular type of vegetation shall be classified as a Plant, Shrub, Tree or Weed for purposes of this ordinance;
 - ii) conditions for permits issued pursuant to Sections Eleven and Twelve of this ordinance;
 - iii) standards for appropriate height and spatial clearances for City Trees, as contemplated by Section Fifteen (a) of this ordinance and for the growth and maintenance of Trees, Shrubs and Plants anywhere within the City so as to prevent obstruction, as contemplated by Section Fifteen (b) of this ordinance;
 - iv) rules for protection of City Trees at construction sites, in addition to the provisions of Section Sixteen of this ordinance;
 - v) Poisonous, allergenic or invasive plants in addition those prohibited by Section Twenty of this ordinance.

Section Twenty-Eight *Severability provision*

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

Section Twenty-Nine *Emergency provision; citation*

The passage of this ordinance being necessary for the immediate preservation of public health and welfare it is hereby declared to be an emergency measure and shall become effective immediately upon its passage and approval by the Mayor. This ordinance shall be known and referred to and cited as the "City of St. Louis Forestry Ordinance of 2010"

Approved: March 16, 2010

BOARD BILL NUMBER 156

FISCAL NOTE

Preparer's Name Cheryl Campbell

Phone Number or Email Address (will be available publicly) campbellch@stlouis-mo.gov

Bill Sponsor Alderman Michael Browning

| | |
|---------------------------|---|
| Bill Synopsis: | <i>This ordinance updates Forestry Division regulations governing the planting, maintenance, preservation, and management of trees, shrubs, and plants within the City of St. Louis, including permitting, reporting, enforcement authority, fee assessment, and fund administration provisions; and containing administrative, regulatory, penalty, and severability provisions.</i> |
| Type of Impact: | <i>Potential Operating Impact; Potential Revenue Impact</i> |
| Agencies Affected: | <i>Department of Parks; Recreation and Forestry (Forestry Division); Comptroller's Office; St. Louis Metropolitan Police Department; City Counselor's Office; Board of Public Service.</i> |

SECTION A

Does this bill authorize:

- An expansion of services which entails additional costs beyond that approved in the current adopted city budget? Yes No
- An undertaking of a new service for which no funding is provided in the current adopted city budget? Yes No
- A commitment of city funding in the future under certain specified conditions? Yes No
- An issuance of bonds, notes and lease-purchase agreements which may require additional funding beyond that approved in the current adopted city budget? Yes No

- An execution or initiation of an activity as a result of federal or state mandates or requirements? Yes No
- A capital improvement project that increases operating costs over the current adopted city budget? Yes No
- A capital improvement project that requires funding not approved in the current adopted city budget or that will require funding in future years? Yes No

If the answer is yes to any of the above questions, then a fiscal note must be attached to the board bill. Complete Section B of the form below.

SECTION B

- Does the bill require the construction of any new physical facilities? Yes No

- If yes, describe the facilities and provide the estimated cost:

- Is the bill estimated to have a direct fiscal impact on any city department or office? Yes No

- If yes, explain the impact and the estimated cost:

The ordinance expands administrative, inspection, permitting, reporting, enforcement, and program oversight responsibilities of the Forestry Division. It also authorizes fee collection, fund administration, and potential abatement activities that may result in operational expenditures and offsetting revenue. Estimated costs cannot be determined from the ordinance language.

- Does the bill create a program or administrative subdivision? Yes No

- If yes, then is there a similar existing program or administrative subdivision? Yes No

- If yes, explain the how the proposed programs or administrative subdivisions may overlap:

- Describe the annual operating, equipment, and maintenance costs that would result from the proposed bill, as well as any funding sources:

Expanded permitting, enforcement, reporting, and administrative duties may result in additional operating workload and associated personnel or equipment needs within the Forestry Division. The ordinance authorizes collection of fees, fines, and related revenues to be deposited into the Urban Tree Canopy Management Fund, which may offset certain program costs. Specific cost estimates cannot be determined from the bill language.

Complete the chart below to list the total estimated expenditures required of the City resulting from the proposed board bill and any estimated savings or additional revenue.

| Financial Estimate of Impact on General Fund | | | |
|--|--------------------------------|----------------------|----------------------|
| Fiscal Impact | <u>Year 1 (current)</u> | <u>Year 2</u> | <u>Year 3</u> |
| Additional Expenditures | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |
| Additional Revenue | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |
| Net | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |
| Financial Estimate of Impact on Special Funds | | | |
| Fiscal Impact | <u>Year 1 (current)</u> | <u>Year 2</u> | <u>Year 3</u> |
| Additional Expenditures | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |
| Additional Revenue | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |
| Net | <i>Indeterminate</i> | <i>Indeterminate</i> | <i>Indeterminate</i> |

- Describe any assumptions used in preparing this fiscal note:

This fiscal note was prepared based on review of the language contained within the Board Bill. Implementation of administrative, permitting, reporting, and enforcement duties is assumed to occur within existing departmental structures unless otherwise determined by the administering agency. This analysis reflects the ordinance language and supporting materials reviewed, which did not include departmental workload volume projections, staffing plans, or cost estimates. Accordingly, fiscal impacts are presented as indeterminate where sufficient data was not available to quantify impacts.

- List any sources of information (including any City officials, agencies, or departments) used in preparing this fiscal note:

*Board Bill 156 — Ordinance Text
Board of Aldermen Fiscal Note preparation standards*

- Have the financial estimates of this bill been verified by the City Budget Division?
 Yes No
 - If yes, by whom? _____ .