ORDINANCE NO. 17,454

AN ORDINANCE AMENDING CHAPTER 29 OF THE CODE OF THE CITY OF PEORIA PERTAINING TO TREES AND SHRUBS

WHEREAS, the City Council is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA ILLINOIS, as follows:

SECTION 1. Chapter 29 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words:

Sec. 29-1. Title.

This chapter shall be known and may be cited as the "Shade Tree Ordinance of the City of Peoria." It describes the overall program to increase the health and care of the urban landscape.

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Sec. 29-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Certificate of license* means a state department of registration and education certification granted upon satisfactory completion of an examination on arboriculture.~~

City Arborist means the designated employee of the city assigned to carry out the enforcement of this chapter. The designated employee is that person assigned by the Director of Public Works who has the necessary knowledge and training to perform the requisite duties as described in the job description.

~~*Large trees* means those trees attaining a height of 50 feet or more.~~

Locations:

City parks are parcels owned by the City that are used as a public park.

City parcels are properties with a tax ID number that are owned by the City.

Medians are strips of land that separate lanes of traffic.

Parkway means that public area between the sidewalk and the curb, or that public area within the dedicated right of way not used for vehicular or pedestrian traffic.

Right of Way is a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Licensed tree expert means one duly recognized and licensed by the state department of registration and education, to perform arboricultural services.

~~*Medium trees* means those trees attaining a height of 30 feet to 50 feet.~~

~~*Parkway* means that public area between the sidewalk and curb, or that public area within the dedicated right-of-way, not used for vehicular or pedestrian traffic.~~

Property owner means the person owning such property as shown by the office of the county recorder of deeds.

Public trees means all shade and ornamental trees now or hereafter growing on any street or any public land. At least 50% of the tree trunk at the base of the tree must be on the City right of way for it to be considered a public tree.

Tree sizes: Large trees means those attaining a mature height of 50 feet or more.

Medium trees means those attaining a mature height of 15 feet to 50 feet.

Small trees means those ~~trees~~ attaining a mature height of ~~30~~ 15 feet or less.

~~*Right-of-way* is a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.~~

Street or ~~*highway*~~ alley means the entire width of every public right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular or pedestrian traffic.

Urban landscape includes trees, shrubs, bushes, flowers or any vegetation used to enhance our community.

Sec. 29-3. Permit.

(a) No person who performs arboricultural work for hire shall plant, spray, fertilize, preserve, prune, or otherwise disturb any tree larger than four inches in diameter measured one foot off the ground, on any street or municipally owned property without first filing an application and obtaining a permit from the ~~c~~City

~~a~~Arborist. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the city.

(b) Application for permits must be made at the office of the ~~c~~City ~~a~~Arborist 48 hours in advance of the time the work is to be performed, except in case of emergencies in which a person or property is in imminent danger. There will be no fee for a permit related to this type of work.

(c) The ~~c~~City ~~a~~Arborist shall issue the permit provided for herein if the proposed work conforms to the Arboricultural Specifications and Standards of Practice adopted by the city. Any permit shall be void if its terms are violated.

(d) Notice of completion shall be given to the city arborist for his inspection.

(e) The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information and conditions as the city shall find reasonably necessary to make a fair determination of whether a permit should be issued.

(f) Necessary maintenance or line clearance work performed by the utilities are not subject to the provisions of this article. The forestry representative of the utility company will work closely with the ~~c~~City ~~a~~Arborist in determining trimming methods used to clear lines. The utilities are not required to obtain a permit.

Sec. 29-4. Other removal, replanting, replacement and pruning.

(a) Wherever it is necessary to remove a tree or trees from a right-of-way in connection with the paving of a sidewalk or the paving or widening of the portion of a street or highway used for vehicular traffic, the city or its designated contractor shall replace those trees as designated by the ~~c~~City ~~a~~Arborist upon need as determined by him. Such trees shall be furnished, delivered, and planted by the city or a contractor authorized to do such work. Cost for replanting shall be considered a part of the construction project. Such trees shall be of a ~~the same~~ species or variety as approved by the City Arborist and have a minimum diameter of two inches, and shall be planted at locations designated by the ~~c~~City ~~a~~Arborist.

(b) If a property owner desires to remove a tree that is found to be healthy by the City Arborist the property has to get approval of the Peoria Urban Forestry Advisory Board. The property owner will be required to reimburse the City the value of the tree as determined by the Arbor Day Foundation National Tree Benefit Calculator.

~~(b)~~(c) No tenant or property owner or his agents shall plant, replant, or replace a tree ~~larger than four inches in diameter (measured one foot off the ground)~~ from the public property for ~~the purpose of construction, or for~~ any ~~other~~ reason~~,~~ without first filing an application and procuring a permit from the ~~c~~City ~~a~~Arborist for such activity in accordance with the adopted arboricultural specifications. Any replacement shall meet the standards of size, species, and placement as required by the ~~c~~City ~~a~~Arborist. The tenant or property owner shall bear the cost of removal and replacement of all trees removed.

(d) Tree planting sites must meet the following requirements: The minimum spacing between trees shall be 30 feet for small trees, 40 feet for medium trees and 50 feet for large tree. No tree shall be planted within 35 feet of an intersection, 10 feet from a fire hydrant, 5 feet from an underground utility line or 35 feet from a traffic control sign. No trees shall be planted closer to a curb, pavement or sidewalk than 2 feet for a small tree, 3 feet for a medium tree and 4 feet for a large tree. Only small trees may be planted under utility lines.

Sec. 29-5. - Obstruction; trees to be ~~pruned~~ removed or pruned.

It shall be the duty of any person owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, traffic signals, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be seven feet over sidewalks and 16 feet over all streets.

(1) Notice to ~~prune~~ trim. Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the ~~c~~City ~~a~~Arborist shall order such person or persons to so prune such trees within 14 days after receipt of written notice by certified mail.

(2) *Notice to remove dead or diseased trees on private property:* City Arborist can declare a tree to be a public nuisance under Section 15-96 of the Code of the City of Peoria due to the condition of the tree that is dangerous or detrimental to the health, life, safety or property of any person. The City Arborist will serve notice to the property owner by certified mail that if the nuisance is not abated within 5 days the City may take corrective action and charge the cost of the corrective action and possible fine to the property owner.

~~(2)~~(3) Certified mail. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner by certified mail.

~~(3)~~(4) Failure to comply; city action. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the city to prune such trees, and the cost thereof shall be payable by the owner and collected as a debt owed to the city.

Sec. 29-6. - Abuse or mutilation of public trees.

No person shall intentionally damage, carve, remove or in any way injure any public tree; allow any gaseous liquid or solid substance which is harmful to such public trees to come into contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree ~~without first obtaining a permit as provided for in section 29-3~~. The value of a tree or damage caused to it shall be established by the formula used by the International Society of Arboriculture and be payable by the person causing the damage and collected as a debt owed to the city.

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Sec. 29-8. - Violation and penalty.

Any person, firm, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a petty offense, and upon conviction thereof shall be fined a sum no less than ~~$25.00~~ $75.00, nor more than as provided in section 1-5 of this Code~~.~~ with the exception of damage to a tree. The cost of damage to a tree will be determined by the Arbor Day Foundation National Tree Benefit Calculator or other tree benefit calculator as selected by the City Arborist.

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Sec. 29-31. - Creation; membership; appointment; compensation; terms; filling of vacancies.

There shall be created and maintained an advisory board to be known and designated as the "Peoria Urban Forestry Advisory Board," composed of ~~12~~ 8 members to be appointed by the mayor with approval of the council. The ~~c~~City ~~a~~Arborist shall be an additional and ex officio, nonvoting member. All members of the board shall serve without pay. Members shall serve for a term as set forth in section 2-162 of this Code. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.

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Sec. 29-51. - Position established; duties generally.

(a) There shall be created the position of ~~c~~City ~~a~~Arborist for the city. The ~~c~~City ~~a~~Arborist shall be appointed by the ~~city manager~~ City Director of Public Works or their designee with the advice of the urban forestry advisory board. ~~Qualifications for the position shall include graduation from a four-year accredited college or university with a degree in forestry or a closely related field.~~ The ~~c~~City ~~a~~Arborist shall present to the board the Arboricultural Specifications and Standards of Practice and any periodic revisions of such of the International Society of Arboriculture governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the city; and shall direct, regulate and control the planting, maintenance and removal of all trees growing in any public area under the jurisdiction of the city. In the absence of the City Arborist, these duties shall be the responsibility of a qualified alternate designated by the Director of Public Works or their designee.

(b) It shall not be the policy of the city, however, to remove, prune, or maintain any trees growing in an unopened easement or within an unopened right-of-way. ~~In the absence of the city arborist, these duties shall be the responsibility of a qualified alternate designated by the city manager.~~

Sec. 29-52. - Authority.

(a) *Generally.* The ~~c~~City ~~a~~Arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to ensure the safety or preserve the ~~aesthetics~~ stewardship of such public sites.

(b) *Supervision.* The ~~c~~City ~~a~~Arborist shall have the authority, and it shall be his duty, to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.

(c) *Condition of permit.* The ~~c~~City ~~a~~Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter and the Arboricultural Specifications and Standards of Practice adopted by the city. Work performed will be under the direction of ~~a licensed tree expert. A certificate or license from the state department of registration and education will be required of contractors working for the city.~~ the City Arborist, who will abide by the best practices of the International Society of Arboriculture.

Sec. 29-53. - To prepare and recommend master street tree plan.

The ~~c~~City ~~a~~Arborist shall have the responsibility to recommend a master street tree plan to the city council for its acceptance with the advice and approval of the shade tree advisory board. The master street tree plan shall specify the species of trees to be planted on streets or other public sites within the city.

(1) The ~~c~~City ~~a~~Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the city.

(2) All plantings ~~within the right-of-way~~ shall be subject to a utility check ~~with all utility companies within the city and the city police, fire and engineering departments.~~ through the Joint Utility Locating Information for Excavators (JULIE).

(3) All plantings not in accordance with the master street tree plan shall be removed at the discretion of the ~~c~~City ~~a~~Arborist. The ~~c~~City ~~a~~Arborist shall notify the person or persons responsible for the planting by

sending such notice by certified mail. If the person responsible for such planting has not removed the planting within the 14-day period, the city shall remove the planting and the costs thereof shall be payable by the person or persons responsible for the planting and collected by the city as a debt owed to it.

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SECTION 2. This Ordinance shall be in effect 10 (ten) days after its passage and publication in pamphlet form.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this 28th day of March, 2017.

APPROVED:

/s/ James E. Ardis, III

Mayor

ATTEST:

/s/ Beth Ball

City Clerk

EXAMINED AND APPROVED:

/s/ Donald B. Leist

Corporation Counsel