



City of Bloomington Common Council

Legislative Packet

Regular Session

16 April 2008

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402

812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov/council>



To: Council Members
From: Council Office
Re: Weekly Packet Memo
Date: April 11, 2008

Packet Related Material

Memo
Agenda
Calendar
Notices and Agendas:

Legislation for Final Action:

- **Ord 08-04** To Amend Title 8 of the Bloomington Municipal Code, Entitled “Historic Preservation And Protection” to Establish a Historic District - Re: Prospect Hill Conservation District (Bloomington Historic Preservation Commission, Petitioner)
Contact: Nancy Hiestand at 349-3507 or hiestann@bloomington.in.gov

Please see the [2 April 2008 Legislative Packet](#) for the legislation, summary, and related materials.

Legislation and Background Material for First Reading:

- **Ord 08-05** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” - Re: Repealing and Deleting Section 2.12.040, Entitled “Tree Commission” and Adding Section 2.20.150, Entitled “Tree Commission”
- Memo to the Council from Margie Rice, City Attorney; Draft Tree Work Manual
Contact: Margie Rice at 349-3406 or ricem@bloomington.in.gov
- **Ord 08-06** To Amend Title 12 of the Bloomington Municipal Code Entitled “Streets, Sidewalks and Storm Sewers” – Re: Repealing Chapter 12.24 Entitled “Trees” and Replacing it with Chapter 12.24 Entitled “Trees and Flora”
- Memo to the Council from Margie Rice, City Attorney; Sample Permit Application
Contact: Margie Rice at 349-3406 or ricem@bloomington.in.gov

Minutes from Regular Session:

None

Memo

Reminder: *Rules Committee Meets at 11:00 a.m. on Wednesday in the Council Library*

One Item Ready for Final Action and Two Items Ready for Introduction at the Regular Session on April 16th

There is one ordinance ready for final action and two ordinances ready for introduction at the Regular Session next Wednesday. The one ordinance ready for final action is **Ord 08-04** which establishes the Prospect Hill Conservation District and can be found along with the summary and related material in the [2 April 2008 Legislative Packet](#) . Please see the following paragraph regarding a possible amendment to the ordinance. The two ordinances ready for introduction can be found in this packet and are summarized below.

Final Action:

Item One – Ord 08-04 – Designating the Prospect Hill Conservation District - Possible Amendment to Remove Properties in the Block Located at the South East Corner of West Kirkwood and South Rogers Street

The Council discussed **Ord 08-04** last Wednesday and heard a request by Joe Myers and Cathy Croxton to remove one block from the proposed Conservation District. Please note that they renewed that request in an e-mail received by the Council Office on Friday. This block is on the south east corner of West Kirkwood and South Rogers and would affect six parcels. Please let the Council Office know by Monday whether any of you want this amendment prepared for Wednesday night.

First Readings:

Item One - Ord 08-05 - Amending Title 2 of the BMC (Administration and Personnel) by Moving the Enabling Provisions for the Tree Commission from the Board of Public Works to the Board of Parks Commissioners and Making Other Revisions

Ord 08-05 is one of two ordinances regarding trees that are coming forward in time for Arbor Day. It shifts the administration of the City's Tree Commission from the Board of Public Works to the Board of Park Commissioners (which has been responsible for urban trees for the last few years) and modifies other provisions regarding the composition and duties of the Tree Commission.

Moving Tree Commission from Board of Public Works to Board of Parks Commissioners

The enabling provisions for the Tree Commission have traveled over the years and hopefully have found a permanent home under the Board of Parks Commissioners Board). The Tree Commission was created in 1992 as part of Tree Ordinance (Ord 92-48) which is found in Title 12 (Streets, Sidewalks, and Sewers). The Tree Commission was then moved to Title 2 (Administration and Personnel) in 1997 (Ord 97-03) under Chapter 2.12, which houses boards, commissions, and councils under the jurisdiction of the Board of Public Works. For a number of years the City's Parks and Recreation Department has been responsible for trees within the City's rights-of-way as well as in the parks and other public property. This ordinance reflects that practice by shifting the Commission to BMC 2.20.04, where it will be under the authority of the Board of Park Commissioners. Please note that this is consistent with I.C. 36-10-4-11, which the City has adopted and which gives exclusive jurisdiction of trees located in these areas to the Board.

Composition

The Tree Commission currently consists of seven members who serve for three-year terms. Two are appointed by the Mayor, two by the Council, one by the Board of Park Commissioners, one by the Board of Public Works and one by the Environmental Commission. This ordinance:

- adds the Urban Forester as an advisory, non-voting member (*Note: This position was previously entitled the "City Landscaper"*);

- provides for members to serve at the pleasure of the appointing authority (*rather than, in some cases, being removed for cause (as set forth in BMC 2.08.020[4])*); and
- clarifies that members serve without compensation.

Duties

The changes in the duties of the Tree Commission reflect the Board's new role in regard to the City's trees, the new title of Urban Forester, and some changes in the Commission activities and focus. In particular, the revised duties of the Commission include:

- “advising the Board of Park Commissioners in formulating policies and practices of urban forestry;” *Note: Currently the Commission advises and assists the “City Landscaper” on these matters.*
- “promote public education on the proper selection, planting, and care of trees by assisting the City with the publication of the City of Bloomington Tree Work Manual (a draft of which is included in this packet); *Note: Currently the code refers to “a manual” and mentions “other means” for promoting public education of trees.*
- “assist the City to fund urban forestry projects through donations and grants;” *Note: Currently the Commission assists the “landscaper”(rather than the City) on funding the acquisition and distribution of additional trees (rather than urban forestry projects)*
- “provide information and advise to the Board on cases before it regarding trees;” *Note: This is a new provision; and*
- “assist the City's Urban Forester compiling and maintaining an inventory of all trees and tree spaces within the public streets ... (which) shall record the location, species, size, condition, and planting and maintenance history of these trees.” *Note: This also is a new provision.*

Meetings – Procedures

The ordinance sets forth basic requirements for the conduct of Commission business which was formerly unstated and, therefore, subject to the General Provisions for all boards and commission as found in BMC 2.08.020. Here, the new language requires the Commission to meet at least six times a year and advertise those meetings according to law (which must refer to the 48-hour notice required by the Open Door Law). It also requires the Commission to elect a president and vice president.

Manual

The Tree Commission has been working on the City of Bloomington Tree Work Manual which will serve “as an arboricultural specifications manual” for work done on all trees on or encroaching upon public property and public right-of-ways. Its specifications not only dictate the treatment of trees subject to the tree ordinance, but also provide a model of best practices for the treatment of trees on private property. A draft version of the Manual is included in this packet for your review. It provides standards on the planting, pruning, removal and protection of trees and also provides other sources of information as well as an approved list of street trees.

Item Two – Ord 08-06 – Repealing and Re-enacting Chapter 12.24 of the Bloomington Municipal Code to be Entitled “Trees and Flora”

Ord 08-06 brings forward a proposal approved by the Tree Commission to repeal and re-enact Chapter 12.24 with the new title of “Trees and Flora.” The following paragraphs briefly summarize the ordinance.

The ordinance is the result of much work on the part of the Tree Commission over many years and has been significantly revised with the help of a consultant. In addition to shifting the responsibility for this Chapter and the Tree Commission from the Board of Public Works to the Board of Park Commissioners, probably the next important change accompanying this legislation is the implementation of a permitting process which exists in the current ordinance, but has never been put into practice.

Other notable changes include:

- Relying on the Tree Work Manual for many of the standards of care;
- Introducing terms that provide better guidance regarding tree care (e.g. “critical root zone”) and when a permit is needed (e.g. cutting limbs at least 3” in diameter);
- Limiting the notice and recourse in the event the City removes a tree;
- Requiring persons who plant trees in the public right-of-way to obtain a permit;
- Eliminating the City target for enhancing tree crown cover; and
- Increasing the fines

Purpose and Intent (12.24.000) – the purpose of the ordinance is to regulate the care of trees and flora on public property and in the public right-of-way “to encourage proper selection and planting and to assure compatibility with other urban infrastructure” and with the intent of maintaining and increasing the City’s tree canopy. It extends to boundary trees which are trees that “straddle” both public and

private property, are identified as such by the City and property owner, or are maintained at a cost that is shared by those parties.

Definitions (12.24.010) – here are few of the definitions which have been expanded from eight to over twenty:

- “Boundary Tree” – see above;
- “Critical Root Zone” – a circular zone of protection around a tree equal to 1 foot for every 1 inch of diameter of the trunk at breast height (or 1.5 feet for every inch of diameter in the case of specimen trees) (*Note: The current ordinance uses the less exact term “dripline” to define this sensitive area.*);
- “Flora” – means all plants except weeds and turf grass;
- “Specimen Tree” – means a tree identified by the Urban Forester to be of “high value” due to its “species, size, age, form, or historical significance”;
- “Topping” – means cutting to stubs branches of more than 3” in diameter so as to remove the normal canopy and disfigure the tree;
- “Tree Lawn” – means the same thing as “tree plot” and includes the area between the road edge and private property line, except for any sidewalk or walkway; and
- “Tree Work” – means just about anything done to a tree to enhance or preserve it as well as the excavation near trees and the planting of shrubs.

City Authority (12.24.020) – this provision gives the City the authority:

- Over all boundary trees as well as trees and flora located within public streets, right-of-ways, and other City property including parks;
- To order removal of trees on private property which are unsafe, injurious to utilities or other public improvements, constitute a potential threat to other trees within the City or pose a threat to public health and safety;
- To publish a City of Bloomington Tree Work Manual (*Tree Work Manual*) with the assistance of the Tree Commission to further the requirements and intent of this ordinance; and
- To require persons to obtain a permit before planting, removing, trimming or cutting trees subject to this chapter and to decide on, and attach any reasonable condition to, the granting of a permit.

Maintenance of Tree Lawn Area (12.24.030) – this provision authorizes the City to require owners of land adjacent to the street to care for the tree plot or tree lawn area, and that such care includes raking, mowing, clearing of brush, and keeping the area as level as practicable with the tops of the curb and sidewalk.

Public Safety and Required Clearances (12.24.040) – this provision requires that trees and flora in the right-of-way be planted so that they don't obstruct the view of motorists and pedestrians in accordance with the Unified Development Ordinance and as recommended in the *Tree Work Manual*. It also requires owners to keep trees and flora at least 15' above the roadway and 8' above the sidewalk and to clear all dead, diseased, or dangerous trees or flora (or parts thereof).

Tree Removal (12.24.050) – this provision requires that, except in emergencies, the City shall post a placard on a tree subject to this Chapter that it intends to remove at least 10 working days before removal and the placard shall provide the reason and date for removal as well as contact information. It also requires property owners who are permitted to remove a tree because of construction, to pay for its removal and to replace the tree with another or others of equal or greater value on site or at a location determined by the City.

Removal of Stumps (12.24.060) – this provision requires the stumps of all trees subject to this ordinance be ground at least 6" below grade and the hole filled with soil and leveled.

Tree Work Permit (12.24.070) – this provision requires everyone except the City to secure a permit before:

- Planting, cutting removing, or treating with pesticide any tree subject to this Chapter;
- Digging, laying any drive, installing underground utilities, or storing any substance within a 10' radius of any tree subject to this Chapter;

Except when:

- The property owner trims limbs of less than 3" in diameter on trees in the tree plot adjacent to his/her property as long as the canopy is not reduced by 30%;
- The City or public utilities act in an emergency to trim or remove *any* tree that endangers the public, inhibits passage on City streets, or interferes with utilities or public infrastructure (*Note: The City need not provide prior notification to property owner in this instance and whoever does the work may, if necessary, top or severely cut the tree.*); or
- The work is done by the City or its agents, but in the event it involves removing a tree, the staff or agents must arrange for the Urban Forester to evaluate whether it can be preserved;

Departmental Review of Permits. The Parks and Recreation Department reviews applications at no charge and grants or denies them according to the policies and principles set forth in this chapter and as supplemented by the Board (e.g. by adoption of the *Tree Work Manual*).

Financial Assurance. Applicants for a permit must demonstrate to the City that they are of sound financial condition and adequately bonded and insured. Applications for the pruning, trenching near, and removing trees and removing stumps must file a bond in an amount and on terms satisfactory to the Department and consistent with other City regulations. However, applications for planting trees generally do not require bonds.

Action by Other City Entities. Petitions presented to the BZA, Plan Commission and Council involving work on trees subject to this Chapter shall be accompanied by a completed tree permit. Approval by those entities constitutes approval of the tree permit.

Protection of Tree/Critical Root Zone. Another provision of this section requires those digging, constructing, or doing street work within a 10' radius of any tree subject to this Chapter to establish a barrier around the tree which is at least 4' high and 8' square. Nothing may be stored within the protected area and an additional layer of shredded bark or wood chips is required beyond the barrier, but within the critical root zone, when heavy equipment will be working or repeatedly passing over that zone.

Prohibited Actions – Including Tree Topping (12.24.080 – 090) These provisions prohibit persons from obstructing or interfering with employees or agents of the City while they are carrying out this Chapter. They also prohibit persons from:

- Damaging, cutting, carving, or disfiguring trees;
- Attaching wires, nails, chains, cables, advertising posters, or other contrivances to trees;
- Putting trees into contact with harmful substances;
- Setting fire to or allowing trees to burn; and
- Topping trees - unless exempted by written determination of the Department due to severely damaged trees or trees under utility wires and other obstructions where other pruning methods are impractical.

Public Nuisance (12.24.100) – This provision establishes that the Board may:

- declare that trees and flora determined by the City to be a hazard or threat to health, safety, life or property are a public nuisance; and,
- order abatement of the nuisance as well as the correction of other violations of this Chapter.

Notice of Violation (12.24.110) – This provision sets forth the procedure of issuing Notices of Violations (NOVs). It establishes that:

- In the event the Board or its designee finds that there is a nuisance or violation of this Chapter, they shall issue an NOV to the responsible party, which may include the property owner(s) as well as the persons who actually cause the violation;
- The NOV shall be mailed to the responsible party at their last known address and shall specify the:
 - Location or premises of the trees or flora by street address or legal description;
 - Kind of tree or flora which is in violation of this Chapter;
 - Sections of this Chapter have been violated;
 - Any actions the responsible party may take to correct the violation and the time they have to do so;
 - Penalties that may be assessed per BMC 12.24.120; and
 - Date after which the City may abate the nuisance.
- If the responsible party fails to correct the violation in a timely manner, then upon order of the Board, the City shall do so and the Legal Department may sue the responsible party to collect any accumulated fines and costs associated with correcting the violation, and pursue any other available relief; and
- Along with the foregoing litigation, the City may also arrange to collect the costs it incurred for correcting a violation as an additional part of the property tax for the affected parcel. This would occur in the event the property owner fails correct the violation in a timely manner and also fails to pay the cost for the correction within 10 days after the Controller mails a certified statement of those costs.

Violation and Penalties (12.24.120) – This provision authorizes the issuance of warnings and provides for persons violating the Chapter to be subject to fines of up to the statutory maximum described in I.C. 36-1-3-8 (i.e. \$2,500 for first violation and \$7,500 for subsequent ones).

Appeal (12.24.130) – This provision sets forth the procedure for appealing a denial of a tree work permit or the issuance of an NOV which:

- Allows anyone aggrieved by those actions to appeal by filing a written statement of the grounds for the appeal with the Board within 10 days after those actions occurred;
- Requires the Board to issue written findings with its decision; and
- Provides for the aggrieved party to file an appeal in court no later than 10 days after the issuance of those findings.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, APRIL 16, 2008
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

IV. REPORTS FROM:

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 08-04 To Amend Title 8 of the Bloomington Municipal Code, Entitled “Historic Preservation and Protection” to Establish a Historic District – Re: Prospect Hill Conservation District (Bloomington Historic Preservation Commission, Petitioner)

Committee Recommendation: Do Pass 6 – 0 – 3

VII. LEGISLATION FOR FIRST READING

1. Ordinance 08-05 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Repealing and Deleting section 2.12.040, Entitled “Tree Commission”, and Adding Section 2.20.150, Entitled “Tree Commission”
2. Ordinance 08-06 To Amend Title 12 of the Bloomington Municipal Code Entitled “Streets, Sidewalks, and Storm Sewers – Re: Repealing Chapter 24 Entitled “Trees”, and Replacing it with Chapter 24 Entitled “Trees and Flora”

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT

City of
Bloomington
Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402



Office of the Common Council

(p:) 812.349.3409

(f:) 812. 349.3570

council@bloomington.in.gov

www.bloomington.in.gov/council

To: Council Members

From: Council Office

Re: Calendar for the Week of April 14-April 19, 2008

Monday, April 14, 2008

4:30 pm Plat Committee, Hooker Room
4:45 pm Utilities Service Board Rules & Regulations Subcommittee, Board Room, 600 E. Miller Dr.
5:00 pm Utilities Service Board, Board Room, 600 E. Miller Dr.
5:30 pm Plan Commission, Council Chambers
6:00 pm Utilities Service Board Working Session, Board Room, 600 E. Miller Dr.

Tuesday, April 15, 2008

4:00 pm Environmental Commission/Bloomington Commission on Sustainability -- Greenhouse Gas Reduction Committee, Hooker Room
4:00 pm Board of Public Safety, McCloskey
4:00 pm Community and Family Resources Commission, Hooker Room
5:30 pm Animal Control Commission, McCloskey
5:30 pm Bloomington Public Transportation Corporation, Transportation Center, 130 W. Grimes Lane
5:30 pm Board of Public Works, Council Chambers
6:00 pm Neighborhood Improvement Grant Meeting, McCloskey

Wednesday, April 16, 2008

9:30 am Tree Commission, Rose Hill Cemetery Office, 930 W. Fourth St.
11:00 am Common Council Rules Committee, Council Library
4:00 pm Martin Luther King Jr., Birthday Commission, McCloskey
7:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, April 17, 2008

8:00 am Bloomington Housing Authority, Housing Authority, 1007 N. Summit, Community Room
4:00 pm Bloomington Digital Underground Advisory Committee, McCloskey
7:00 pm Environmental Commission, McCloskey

Friday, April 18, 2008

12:00 pm Domestic Violence Taskforce, McCloskey
4:00 pm Telecommunications Council, McCloskey

Saturday, April 19, 2008

8:00 am Bloomington Community Farmers' Market, Showers Common, Showers Building, 401 N. Morton



City of Bloomington
Office of the Common Council

Revised **MEETING NOTICE**

Common Council Rules Committee

**Wednesday, 16 April 2008
11:00 am
Council Library
(City Hall, 401 N. Morton, Suite 110)**

Because a quorum of the Common Council may be present, this meeting may constitute a meeting of the Council as well as of this Committee under Indiana Open Door Law. Therefore, this provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Tuesday, April 01, 2008 and revised and posted Friday, April 11, 2008 to reflect earlier meeting time

ORDINANCE 08-05

TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED “ADMINISTRATION AND PERSONNEL”

Re: Repealing and Deleting Section 2.12.040, Entitled “Tree Commission”, and Adding Section 2.20.150, Entitled “Tree Commission”

WHEREAS, since its establishment in 1992, the Tree Commission has served to promote the care and protection of trees in the City of Bloomington; and

WHEREAS, pursuant to Indiana Code 36-10-4, *et seq.*, which was adopted in its entirety by the Common Council, the Bloomington Board of Park Commissioners has exclusive control over the planting, trimming, and maintenance of trees on public property or in the public rights of way; and

WHEREAS, the Tree Commission shall assist the Bloomington Board of Park Commissioners in carrying out the Board’s statutory duties regarding trees on public property or in the public rights of way;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

SECTION I. Bloomington Municipal Code Section 2.12.040 shall be repealed and deleted from the Title of Contents for Chapter 2.12.

SECTION II. Bloomington Municipal Code Section 2.20.150 is hereby adopted and shall to read as follows:

2.20.150 Tree Commission

(1) Purpose—Duties. The Tree Commission shall serve in an advisory capacity regarding the care of trees within the City of Bloomington (“City”). It shall be the responsibility of the Tree Commission to:

- a) advise the Bloomington Board of Park Commissioners in formulating policies and practices of urban forestry as set forth in the Bloomington Municipal Code Chapter 12.24 entitled “Trees and Flora”;
- b) promote public education on the proper selection, planting, and care of trees by assisting the City with the publication of the City of Bloomington Tree Work Manual ;
- c) assist the City in its efforts to fund urban forestry projects through donations and grants;
- d) provide information and advice to the Bloomington Board of Park Commissioners on cases before it regarding trees; and
- e) assist the City’s Urban Forester in the compilation and maintenance of an inventory of all trees and tree spaces within the public streets. This inventory should record the location, species, size, condition, and planting and maintenance history of these trees.

(2) Appointments. The Tree Commission shall consist of eight members. Seven shall be appointed, serving for three year terms. Two shall be appointed by the Mayor, two by the Common Council, one by the Bloomington Board of Park Commissioners, one by the Board of Public Works, and one by the Environmental Commission. The Urban Forester shall serve on the Commission as an advisory nonvoting member. Appointed members of the Tree Commission serve at the pleasure of their respective appointing body which has the ability to remove a member at any time for any reason deemed sufficient to that body. Members of the Tree Commission shall serve without compensation.

(3) Meetings—Procedures. The commission shall meet as needed, electing a president and vice-president annually and keeping a written record of its proceedings. In any event the commission shall meet no less than six (6) times per calendar year and shall advertise those meeting times and places in accordance with the law.

SECTION III. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION IV. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2008.

SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2008.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2008.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends the Bloomington Municipal Code by moving the enabling provision for the City’s Tree Commission from the jurisdiction of the Board of Public Works to that of the Board of Park Commissioners. This ordinance also: (1) updates the purpose and duties of the Tree Commission; (2) clarifies the role of the City’s Urban Forester (formerly known as the City Landscaper); (3) provides for the election of commission officers; and (4) establishes that the Tree Commission shall meet at least six (6) times per calendar year.

Corporation Counsel
Kevin R. Robling

City Attorney
Margie Rice

Assistant City Attorneys
Susan Failey
Jacquelyn F. Moore
Patricia M. Mulvihill
Vickie Renfrow
Margie Goodwin Schrader

TO: Members, City of Bloomington Common Council

CC: Mark Kruzan, Mayor
Maria Heslin, Deputy Mayor
Kevin R. Robling, Corporation Counsel
Dan Sherman, City Council Attorney

FROM: Margie Rice, City Attorney
Jackie Moore and Margie Schrader, Assistant City Attorneys

DATE: April 9, 2008

RE: Revisions to BMC regarding the City of Bloomington's "Tree Commission"

As part of a comprehensive review of the Bloomington Municipal Code ("BMC") provisions related to trees, amendments to the current Section 2.12.040 of the BMC regarding the Tree Commission are suggested. The updates described below will bring the section in line with actual City practices and are consistent with proposed changes to the City's Tree Ordinance.¹

The Tree Commission's proposed purpose and duties remain relatively unchanged. The Commission still advises regarding tree-related policies, helps with promotion and public education and assists in efforts to fund urban forestry projects. One added duty, assisting the City's Urban Forester with the City's tree inventory, will codify work already undertaken by the Commission. All references to "the city landscaper" have been removed and replaced with references the City's Urban Forester. The revisions make clear that the Commission serves in an advisory capacity to the Board of Park Commissioners, rather than to the Board of Public Works. Because Indiana Code gives authority over shade trees to the Board of Park Commissioners and because the City's Urban Forester is now an employee of the Parks and Recreation Department instead of the Department of Public Works, the change in reporting structure seems logical.

Only one substantive change is suggested to the membership subsection. It is proposed that the Urban Forester serve as the eighth member of the Commission. His membership would differ from the other seven members in that he would serve only as an advisory, nonvoting member. Under the proposed legislation, Commission members will serve at the pleasure of their appointing body and can be removed at any time and for any reason deemed sufficient by the appointing body.

A simple meeting and procedure subsection was added, requiring the Commission to annually elect a president and vice-president to preside over their meetings. At least six meetings per year are required under the proposed ordinance.

¹ Upon codification, the revised Tree Commission ordinance will be found in BMC Section 2.20.150.

THE CITY OF BLOOMINGTON

TREE WORK MANUAL

A MANUAL FOR WORK ON PUBLIC TREES

The City of Bloomington Tree Commission

This educational brochure was prepared with funding assistance from the Indiana Department of Natural Resources Urban Forestry Conservation Grant. Text was authored by Gina A. Darnell, Professional Forester, Forest Resource Planning and Lee Huss, Bloomington Urban Forester.

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I. INTRODUCTION

A. PURPOSE OF THE TREE WORK MANUAL

This Tree Work Manual specifies the correct standards of practice for tree planting, removing, and the care of trees in the City of Bloomington. This manual, which serves as an arboricultural specifications manual, was prepared by the Bloomington Tree Commission and approved by the Bloomington Board of Park Commissioners.

B. IMPLEMENTATION OF TREE WORK STANDARDS

A municipal tree ordinance to establish a Tree Commission and to regulate the care of public trees has been in effect since 1992 in the City of Bloomington and has most recently been updated in 2008. The ordinance stipulates that all work on boundary trees and trees that lie on public property and in public rights of way shall comply with the standards set forth in this manual. While not mandatory, it is recommended that work on trees in the private sector follow these standards to assure a safe and healthy environment for the citizens of Bloomington.

C. POLICIES REGARDING TREE WORK

The designation of “Tree City” is one in which the government and citizens take pride and wish to see expressed in the actions and attitudes taken toward boundary trees and trees on public property and in public rights of way. A goal toward the expansion of tree cover in our urban environment serves to improve the City’s economic vitality, improve air quality, buffer noise, moderate temperatures, increase wildlife habitat, and beautify the City. The responsibility for improving Bloomington’s urban forest is a joint venture between government and citizens.

The Bloomington Tree Commission has adopted these policies, with a goal of improving the City:

- Encouraging the use of proper preventive tree maintenance techniques to ensure long-lived trees, thereby reducing the need for tree removals.
- Expanding the tree crown coverage in the City by maintaining existing trees and by planting new urban tolerant trees, especially native species of shade trees.
- Increasing public awareness of and involvement in urban forestry through educational efforts to promote landscaping and Tree Work on private properties.
- Encouraging site designs to provide for the accommodation of trees with other infrastructure, such as utilities, parking lots, buildings, signs, streets, and sidewalks.

II. RECOMMENDED STANDARDS OF TREE WORK

A. PLANTING

1. TIPS FOR CHOOSING AND PLANTING CITY TREES

Whether you choose to plant a tree in your private yard or along the street on City property, there are important things to consider. The City of Bloomington strives to have many beautiful trees gracing its streets, but trees need to coexist in a safe manner with public infrastructure like utility lines, streets, sidewalks, buildings, and signs. **Planting the right tree in the right place is the key to having a successful urban forest.**

Before planting any tree, look around to see how much room a tree would have to grow to mature size. **If planting a tree next to the street on public property, you must first obtain a Tree Work Permit from the Bloomington Parks and Recreation Department.** Look at the space between the sidewalk and street. Look above for power lines, phone lines, or street lights that should not be blocked. Be sure to pick the right sized tree both for the location you are planting and for the size of buildings near the tree. Consider tree color both in spring and fall, the scale of the planting, and the final shape of a tree in designing your planting area.

Always **CALL BEFORE YOU DIG, 1-800-382-5544**, to contact the free public service utility locate company. Underground utilities like phone, gas, electric, and cable TV will be painted or flagged in the vicinity of your digging hole. This locate service will also mark underground water and sewer lines in the public rights of way, but not in your yard. Securing a permit and complying with these guidelines can assure the approval of the siting of the tree and the appropriateness of the selected tree species.

Trees can be planted anytime the ground can be worked. Spring is a good time to plant, while trees are not yet leafed out and newly planted trees can benefit from spring moisture. Late fall planting also allows roots to be established while trees benefit from winter moisture. Containerized trees can be planted in summer, as they have good root systems. Freshness and pre-planting care of tree stock are important for survival, as is post-planting watering weekly for a full growing season. And remember, buy quality trees that are healthy, well pruned, and have a strong central trunk. Bargain trees that have been left in hot sun or cold wind to dry out are no bargain when they die.

2. SELECTING THE RIGHT TREE TYPE: Size is Important!

This manual contains approved street tree species lists, which list the tree types that are suitable for planting in the climate of Bloomington. Trees are grouped into three size classes—small, medium, and large—based on their mature size. Tree species that appear in this list are also adapted to urban stresses such as road salt, limited grow spaces, and poor soils.

A size class should be chosen based on the growing space of the planting area. To determine what size planting space you have, refer to the “distance from infrastructure” text in each list. If you have a small growing space, choose a tree from the small tree type list; a medium space, a medium tree type; and a large space, a large tree type.

Also included is a list of trees (Table 5) which are undesirable for planting in the City. These tree species usually have disease, pest, or litter problems that make them unsuitable in urban areas. Some species of trees are invasive in the natural environment due to prolific seeding or root sprouting and should likewise not be planted. The planting of monocultures of trees (lots of the same kind of tree) is discouraged because of potential insect and disease problems. The Bloomington Tree Commission highly encourages the use of native tree species from these lists when selecting trees to plant.

An excellent website for tree species information and photos is www.ohiodnr.com/forestry/trees/default.htm.

3. TREE PLACEMENT IN THE TREE LAWN

Placement guidelines for trees planted in relation to adjacent infrastructure are listed for each tree size class in the “distance from infrastructure” sections of the approved street tree species lists. Further, for standards that apply to vision clearance standards for trees and shrubs planted in the public right of way or on public property, please refer to Bloomington Municipal Code section 20.05.110.

4. PLANT MATERIAL HANDLING, INSPECTION, AND STORAGE

- Only desirable long-lived trees of good appearance, beauty, adaptability, and generally free from injurious insects and diseases, shall be planted on public sites. Any trees planted shall be adaptable to USDA Zone Five (5) climate conditions.
- Trees shall be tagged, indicating species and size. Trees shall be free of wounds, insects, and cankers. Root systems should be full, and root balls should be moist but not moldy. Trees in containers should not have circling roots. Root balls should be protected from freezing and desiccation.
- Plants should be protected from wind during transport and kept cool and moist at all times. Care should be taken not to drop or otherwise loosen the root ball. Trees should not be picked up by the trunk. Instead, the soil ball should be supported when moving the plant.
- Bare rooted plants must be planted when dormant (buds are closed and not leafed out). Roots should always be kept cool and moist and trees planted as soon as possible. If stored, the trees should be covered with moist soil, straw, or wood chips. Bare rooted trees should be soaked in water immediately prior to planting.

5. PLANTING PROCEDURES

Balled and Burlapped Trees

- a. A hole should be dug with the width three (3) times

the spread of the root ball and no deeper than the root ball height. Sod should be removed from the site.

- b. When transplanting trees, trees will be planted no deeper than previously grown. The trunk flare at the base of the tree should not be buried. In clay soils trees can be planted slightly high, not to exceed twenty percent (20%) of the root ball height above ground level, with sloped backfill covering all roots. Set trees on native soil that is thoroughly compacted. Trees should be set gently into the hole without stress on the trunk or loosening the root ball.
- c. Cut away twine only after tree is set in level position. Fold back burlap and wire basket below ground level. Remove all plastic twine.
- d. Straighten tree and backfill one-third (1/3) of hole with existing native soil. (Avoid using excessive organic matter additives to the fill.) If desired, at this time a solution of water with root stimulator-type fertilizer can be applied over the roots. Compact backfill with feet. Check tree straightness again, complete backfilling tree, and once again compact the backfill. Construct a three (3) inch-high watering dike around the hole.
- e. Apply water to settle the soil and to eliminate any voids.
- f. Chop up any dirt clods, add soil if needed.
- g. Place a three (3) inch layer of mulch around the tree in a minimum two (2) foot radius. Do not pile mulch against the trunk. Instead, keep mulch at least three (3) inches from the trunk.
- h. Prune only broken branches. Trees do not normally need to be staked. Staking is recommended for trees with loose root balls, trees exposed to equipment damage, or trees exposed to high wind or high river conditions. Take care not to damage the root ball when staking and remove any supports before they grow into the tree.

Bare Rooted Trees

- a. Plant trees immediately upon receipt. Keep roots cool and moist at all times.
- b. Soak roots in water before planting. When planting trees larger than seedlings, tree roots should be soaked in a wetting gel solution.
- c. Cleanly trim any long root hairs or broken roots.
- d. Hold tree in hole at soil line, making sure roots are straight and not bent in a “J” shape or circling in the hole. Carefully pack soil firmly around the roots and water.
- e. When transplanting trees, plant tree at the previous planting depth for hardwood seedlings, slightly deeper for evergreen seedlings.

6. TREE CARE FOR NEW TREES

Watering

New trees should be supplementally watered for three (3) years after planting. Plants should be thoroughly watered every five (5) to ten (10) days from April through October as needed as a supplement to natural rainfall. Plants should receive a total of two (2) inches of water every two (2) weeks, or about ten (10) gallons per two (2) inch caliper tree. Watering is critical when summer temperatures exceed ninety (90) degrees for extended days.

Fertilizing

Fertilizing is not usually necessary. At planting time, a high phosphorus “root stimulator” type fertilizer can be poured over the roots. If at any time the tree appears stressed, a water-soluble fertilizer like Miracle-Gro can be watered in.

Pruning

Newly planted trees should be pruned only as needed to remove dead, damaged, or poorly located limbs. After trees are established, usually a minimum of three (3) years, structure pruning is recommended to promote a strong central tree leader and to remove lower branches as needed for clearance.

Wrapping

Only thin barked trees such as young maples, linden, beech, and tulip poplars which are subject to sunscald should be protected November to April with specialty paper tree wrap material. Never use tape or plastic material. *All wrapping should be removed during the growing season.* Open bark wounds should not be wrapped but, instead, the bark should be trimmed cleanly and left open to air circulation. If the wound is fresh and the bark still partially attached, the bark can be pressed in place and gently wrapped to graft back in place.

Staking

Only those trees in windy open areas, along floodplains, or with loose root balls should be staked as to avoid movement of the base of the tree at the roots. Freedom of movement in a tree trunk

helps a tree develop a stronger trunk. If staking, avoid cutting roots while driving the stake or damaging bark with any rope or wire used. All staking materials should be removed after one (1) year from installation.

Mulching

Mulch should be applied at time of planting and reapplied annually in the spring. Mulch a depth of three (3) inches for a minimum two (2) foot radius around the tree. Do not pile mulch against the trunk. Instead, keep mulch two (2) to three (3) inches from the trunk. Recommended mulch is shredded bark or aged wood chips.

B. PRUNING

1. CHOOSING AN ARBORIST

Why hire an arborist? An arborist is a specialist in the care of individual trees. Arborists are knowledgeable about the needs of trees and are trained and equipped to provide proper care. Hiring an arborist is a decision that should not be taken lightly. Proper Tree Work is an investment that can lead to substantial returns. Well cared for trees are attractive and can add considerable value to your property. Poorly maintained trees can be a significant liability. Pruning or removing trees, especially large trees, can be dangerous work. Tree work should be done only by those trained and equipped to work safely in trees. A listing of local certified arborists for hire can be located at the website www.isa-arbor.com. Go to “Find a Certified Arborist” tab.

2. PRUNING REGULATIONS AND GUIDELINES

The following regulations and guidelines apply to tree pruning activities on boundary trees and trees on public property and in public rights of way, whether done by an individual or a contracted agent. Please refer to the Tree Ordinance for complete details.

- a. Any person pruning a public street tree by removing branches over three (3) inches diameter in size is required to obtain a Tree Work Permit from the Parks and Recreation Department prior to pruning activities.
- b. To facilitate the flow of traffic and pedestrians, trees overhanging the street shall be pruned for a clearance of fifteen (15) feet and trees and shrubs overhanging the sidewalk shall be pruned for a clearance of eight (8) feet.
- c. No tree topping is allowed. To reduce the crown of a tree, Crown Reduction Pruning should be used, which is accomplished by pruning back the tree leaders and branch terminals to lateral branches that are large enough to assume the terminal roles (at least one-third (1/3) the diameter of the cut stem). In simpler terms, always cut back to the “Y” of a limb.
- d. Any persons or firm engaging in the business of pruning, treating, or removing trees shall be bonded and insured as currently required by the City.

- e. Proper pruning techniques and practices will be used, as set forth in the Tree-Pruning Guidelines prepared by the International Society of Arboriculture (ISA).
- f. Safe tree pruning practices shall be followed. Acceptable Tree Work Safety Standards can be found on the web by researching document ANSI Z133.1-2006 from the American National Standards Institute. This document lists the current national safety standards for arboricultural operations.

3. APPROVED PRUNING TECHNIQUES

The following techniques should be used for any pruning.

Crown Cleaning is the removal of dead, dying, or diseased, crowded, weakly-attached, and low-vigor branches from the crown of a tree.

Crown Thinning is the selective removal of branches to increase light penetration and air movement through the crown. Thinning opens the foliage of a tree, reduces weight on heavy limbs, and helps retain the tree's natural shape.

Crown Raising removes the lower branches from a tree in order to provide clearance for buildings, vehicles, pedestrians, and vistas.

Crown Reduction reduces the size of a tree, often for clearance for utility lines. Reducing the height or spread of a tree is best accomplished by pruning back the leaders and branch terminals to lateral branches that are large enough to assume the terminal roles (at least one-third (1/3) the diameter of the cut stem). Tree topping is not an accepted pruning method.

4. PROPER PRUNING PRACTICES

- a. Proper pruning tools help a tree heal its pruning cuts. Pruners, loppers, and saws should be sharp. Hedge shears should never be used. To prevent the spread of infectious diseases, all pruning tools should be cleaned or disinfected with alcohol before being used on a new tree.
- b. Trees should not be over-pruned. Do not remove too many small branches when tree pruning. A rule of thumb is never to remove more than one-fourth (1/4) of a tree's leaf-bearing crown. Another rule of thumb is, when clearance pruning under a tree, always leave at least the top two-thirds (2/3) of the tree's height with branches.
- c. Wound dressings are not recommended.
- d. Dead, damaged, or diseased branches should be removed. Branches that cross or rub should be pruned.

- e. Pruning cuts should only be made at a lateral bud on a twig or by pruning back a leader or branch terminal to a lateral branch. Pruning cuts should be made just outside the branch collar, as illustrated.

5. NO TREE TOPPING ALLOWED

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

Eight good reasons not to top a tree:

- ✓ Cost
- ✓ Ugliness
- ✓ Insects and diseases
- ✓ Tree death
- ✓ Weak limbs
- ✓ Rapid new growth
- ✓ Tree shock
- ✓ Tree starvation

To prevent the need for topping, start out by planting the right trees that will fit the available space. Begin pruning early to modify the structure of a tree as needed. Pruning early in the life of a tree can prevent the need for expensive mature tree pruning. More information on topping and alternate pruning techniques can be found at the website www.treesaregood.com/treecare/topping.aspx.

C. TREE REMOVAL STANDARDS

1. All removals of street trees shall require a Tree Work Permit from the Parks and Recreation Department. Persons performing tree removals must meet all bonding requirements set forth in the Tree Ordinance.
2. Appropriate street and sidewalk barriers shall be placed where removals may endanger the public. Permission to block any street or sidewalk shall be obtained from the Department of Public Works prior to the placement of any street or sidewalk barriers.
3. Care shall be taken in dropping trees to prevent sidewalk and curb damage.
4. The stumps of all trees shall be removed to at least six (6) inches below ground level and the cavity shall be filled with soil and leveled.

D. PROTECTING TREE ROOTS

If a tree's roots are damaged, the tree is damaged and may succumb to an early death. Trees usually decline slowly and begin showing stress with dying tips of branches in the canopy. While roots extend well beyond the drip line or edge of a tree's canopy, there is a root area that needs special protection -- the Critical Root Zone. This is defined as a circular region measured outward from the tree's trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. Critical Root Zone is one (1) foot in radial distance for every inch of tree diameter at breast height ("DBH"), with a minimum distance of eight (8) feet. For specimen (very special) trees, the formula changes to one and one-half (1 ½) feet for every inch of DBH.

1. MATERIAL STORAGE

No dirt or materials, construction or otherwise, should be stored within the tree's Critical Root Zone. When excavating, constructing, or performing street work within a ten (10) foot radius of any tree subject to these provisions, the tree shall be guarded with a fence, frame or box, not less than four (4) feet high and eight (8) feet by eight (8) feet square and all building material, dirt, or other debris shall be kept outside the barrier. Chemicals or oil or hot charcoals should never be disposed of in the critical root zone under a tree. When grading yards, a layer of soil over six (6) inches deep will damage tree roots, as will the cutting of roots. Eighty (80%) percent of a tree's roots are in the top eighteen (18) inches of soil. Roots need to be close to the surface for oxygen needs.

Parking under trees causes soil compaction which hurts roots and stresses trees. During construction activities where vehicles will pass repeatedly under trees and over roots, at least a three (3) inch layer of wood chips shall be placed temporarily on the path to prevent soil compaction.

2. SIDEWALK CONSTRUCTION AND REPAIR

Large trees in small grow spaces can cause sidewalk lift and a tripping hazard. Planting the right tree (or no tree) in a small space helps prevent this problem. Where tree and sidewalk conflicts already exist, there is unfortunately no perfect solution. Options range from sidewalk redesign to root pruning to tree removal.

Sidewalk lift is caused by both tree root expansion and by poor sidewalk condition. Sidewalks deteriorate with time and from seasonal movement from freezing and thawing. Tree roots can then grow into cracks and voids, raising pavement. By properly installing sidewalks with adequate base materials, the concrete will be less prone to both soil movement and tree root pressure.

Where sidewalk replacement and installation is performed, street trees affected will be evaluated by the City's Urban Forester to assess impact of construction on the tree health. Damage to sidewalks is not sufficient reason to remove a tree if present damage can be adequately corrected and future damage can be averted.

City zoning laws require sidewalks to be installed at a five (5) foot width. Any smaller width would require a variance through the Board of Zoning Appeals. Where tree-root conflicts exist it may be possible to reduce sidewalk width and still be in compliance with federal ADA sidewalk mandates. With City permission, sidewalks may be reduced to a width of three (3) feet at a tree as long as there is a passing zone of five (5) feet sidewalk width within two hundred (200) feet of the tree area.

With permission from the City, it may be possible to install paving options such as paver bricks, asphalt, or rubber mats, or to ramp the site to avoid cutting tree roots. If tree roots are cut, they must be cut cleanly. It is also important that not too many roots are cut. The “four-by-four-by-four (4x4x4) rule” noted in the following section is a good guideline for determining if a tree’s support or health is compromised.

Roots exposed during construction should be kept moist. Wet burlap makes a good protective covering. For the year after a root pruning for sidewalk, sewer, or curb construction, a tree will benefit from an application within the tree root zone of nitrogen in the form of common grass fertilizer.

3. TRENCHING AND TUNNELING STANDARDS

- a. Any installation of underground public utilities shall employ, whenever physically able, tunneling instead of trenching within the critical root zone area of any public tree.
- b. All roots cut over two (2) inches in diameter shall be cut cleanly. All trenches shall stay open no longer than necessary and shall be properly barricaded.
- c. ***Four-by-Four-by-Four (4x4x4) Rule:*** If any four (4) tree roots four (4) inches in diameter within four (4) feet of the tree are cut, the tree should be removed because of increased tree wind-throw failure potential.

E. **TREATING WITH PESTICIDES**

1. Treating trees or flora with pesticides (herbicides or insecticides) shall be done only for the control of specific diseases or insects, with the proper materials, at the properly labeled dosage, and applied at the proper time to obtain the desired control, as specified by the chemical manufacturer. All spraying of pesticides shall conform to federal and state regulations.
2. Read the product label and follow all manufacturer’s instructions in order to protect yourself and the public when using chemicals.
3. A Tree Work Permit must be secured before treating with pesticides any boundary trees or trees or flora on public property or in public rights of way.

III. OBTAINING A TREE WORK PERMIT

A Tree Work Permit is required for the following activities:

- a. planting, cutting, or removing any tree within any tree lawn or other public place, except as otherwise noted
- b. treating with pesticide any tree within any tree lawn or other public place, except as otherwise noted,
- c. excavating any ditches, tunnels, or trenches, laying any drive, installing underground utilities, or storing any substance within a ten (10) foot radius of any tree subject to these provisions.

Tree Work Permit applications are available free of charge from the office of the Department of Parks and Recreation, located at Bloomington City Hall, 401 N. Morton Street.

Keep in mind that permits must be approved before work can begin.

IV. SOURCES FOR FURTHER INFORMATION

Information Regarding Fines for Tree Ordinance Violation

For more detailed information on the fines referenced in Bloomington Municipal Code section 12.24.???, the referenced statute can be found at:

<http://www.in.gov/legislative/ic/code/title36/ar1/ch3.html>.

Purdue Extension

Free advice on Tree Work and insects and diseases of plants can be obtained from the Purdue Extension County Agent, located at 119 W. 7th Street, Bloomington. Phone number is (812) 349-2575.

Textbooks

Urban forestry related material is located at the Monroe County Public Library, as a result of a federal grant administered by the Indiana Department of Natural Resources, Division of Forestry, Community and Urban Forestry.

The following texts in particular are good resources for further Tree Work information:

Pirone's Tree Maintenance by Pirone, et al

Tree Care Handbook by Morton Arboretum

Websites

The following websites contain good information on Tree Work:

International Society of Arboriculture main site - <http://www.isa-arbor.com>.

International Society of Arboriculture Tree Work site - <http://www.treesaregood.com>

Emerald Ash Borer main site - <http://www.entm.purdue.edu/EAB/>

Indiana Urban Forest Council, Inc. - <http://www.iufc.org>

Northern Trees-Tree Selection Guide - <http://orb.at.ufl.edu/TREES/index.html>

Planting Trees in the Landscape - <http://hort.ifas.ufl.edu/woody/planting/>

Tree Link -<http://www.treelink.org>

USDA Forest Service, Northeastern Area Urban and Community Forestry -

<http://www.na.fs.fed.us/urban/index.shtm>

To Contact the City's Urban Forester

The City's Urban Forester is Lee Huss. He can be contacted through the Department of Parks and Recreation located at Bloomington City Hall, 401 N. Morton Street, Suite 250, or by phone at (812) 349-3716.

V. BLOOMINGTON APPROVED STREET TREE SPECIES LIST

According to the Bloomington Municipal Tree Ordinance, the following tables shall constitute the official street tree species for Bloomington. These are the tree species with growth characteristics that do well on urban sites. All trees are suited for USDA cold hardiness Zone Five (5). The tables also include specifications for the minimum distances to be maintained between trees and other infrastructure when planting new trees within the public way. **Native tree species are indicated in bold.**

TABLE 1: SMALL TREE SPECIES FOR SMALL SPACES

Small trees are defined as those trees attaining a height of twenty (20) to thirty (30) feet at maturity.

DISTANCE FROM INFRASTRUCTURE:

Plant no closer than two (2) feet from street, sidewalk, or curb.

Minimum grow space of four (4) feet of tree lawn.

Small trees may be planted under overhead utility lines.

Do not plant within five (5) feet of any underground utility (phone, sewer, water, cable, electric).

Do not plant within ten (10) feet of any utility pole or fire hydrant.

Do not plant within three (3) feet of a parking area unless vehicle wheel stops are provided.

Trees should not be planted where traffic line-of-sight is compromised at intersections.

Tree pruning may be required as the tree matures to maintain adequate street and sidewalk clearance.

MINIMUM SIZE

Trees planted in the public street tree lawn must be a minimum one and one-half (1 ½) inch diameter caliper. (Caliper is measured six (6) inches above ground level.)

COMMON NAME	SCIENTIFIC NAME	RECOMMENDED CULTIVARS
Paperbark Maple	<i>Acer griseum</i>	
Tartarian Maple	<i>Acer tartaricum</i>	
Shadowblow Serviceberry	<i>Amelanchier canadensis</i>	
Apple Serviceberry hybrids	<i>Amelanchier x grandiflora</i>	‘Princess Diana,’ ‘Autumn Brilliance’
Allegheny Serviceberry	<i>Amelanchier laevis</i>	
Eastern Redbud	<i>Cercis canadensis</i>	(use single-trunk tree form on streets)
Flowering Dogwood	<i>Cornus florida</i>	(plant only on sheltered sites, tree form)
Kousa Dogwood	<i>Cornus kousa chinensis</i>	
Thornless Cockspur Hawthorn	<i>Crataegus crus-galli</i> <i>‘Inermis’</i>	
Washington Hawthorn	<i>Crataegus phaenopyrum</i>	(only where thorns not problematic)
Green Hawthorn	<i>Crataegus viridis</i>	

Flowering Crabapple	<i>Malus sp.</i>	
Japanese Tree Lilac	<i>Syringa reticulata</i>	

TABLE 2: RECOMMENDED CRABAPPLE CULTIVARS

Trees of the *Malus* (Crabapple) species come in many beautiful shapes, sizes, and colors of leaf and flower, making it a popular, highly utilized specimen tree. Some Crabapples, however, are plagued with disease, insects, and fruit litter problems. Diseases include scab, fireblight, apple-cedar rust, and powdery mildew. Researchers have bred new cultivars to resist these diseases and insects like the Japanese Beetle. Maintenance requirements of crabapples can also be rather high. Often, reoccurring sprouts must be trimmed from the tree base. Because Crabapples can grow quite wide and low, trees planted next to sidewalks, streets, and driveways need to be pruned for adequate clearance. Use of Crabapples trees along the street should be reserved for tree lawns of sufficient size to accommodate the eventual width.

The following attractive cultivars, tested by Purdue University, have proven to have good disease and insect tolerance and few problems with fruit drop:

<u>CULTIVAR</u>	<u>HEIGHT</u>	<u>WIDTH</u>	<u>COMMENTS</u>
‘Adirondack’	18’H	10’W	densely covered with white flowers
baccata ‘Jackii’	20’H	20’W	white flowers, glossy leaves
‘Bechtel’	30’H	15’W	
‘Centzam’ (Centurion)	20’H	15’W	rose-red flower, reddish leaves
‘David’	12’H	12’W	good looking year round, smaller
‘Hargozam’ (Harvest Gold)	25’H	20’W	white flowers, gold fruit
‘Pink Spires’	15’H	12’W	pink flowers, purple leaves
‘Prairiefire’	20’H	20’W	pink-red flowers, excellent tree
‘Red Barron’	18’H	8’W	good for narrow spaces
‘Red Jewel’ (Jewelcole)	15’H	12’W	smaller tree, red persistent fruit
‘Sinai Fire’	15’H	15’W	white flowers, weeping shape
‘Van Eseltine’	25’H	12’W	upright vase shape
‘Winter Gold’	25’H	20’W	winter-persistent gold fruit
x zumi ‘Calocarpa’ (Zumi)	20’H	24’W	white flower, red persistent fruit

NOTE: Many new cultivars are on the market annually. Purchase only disease resistant varieties.

TABLE 3: CRABAPPLE CULTIVARS NOT RECOMMENDED

The following should not be used because of insect and disease susceptibility:

Adams	Indian Summer	Sentinel
Liset	Snowdrift	Baskatong
Madonna	Sugar Tyme	Candied Apple
Mary Potter	Velvet Pillar	Donald Wyman
Prairie Maid	White Candle	Profusion
Doubloons	Robinson	Indian Magic
Selkirk		

TABLE 4: MEDIUM TREE SPECIES FOR MEDIUM SPACE

Medium trees are defined as those trees attaining a height of thirty (30) feet to forty-five (45) feet at maturity. Native tree species are indicated in bold.

DISTANCE FROM INFRASTRUCTURE:

- Plant no closer than three (3) feet from street, sidewalk, or curb.
- Minimum grow space of five (5) to six (6) feet of tree lawn.
- Do not plant under or within ten (10) lateral feet of any overhead utility lines.
- Do not plant within five (5) feet of any underground utility (phone, sewer, water, cable, electric).
- Do not plant within ten (10) feet of any utility pole or fire hydrant.
- Do not plant within three (3) feet of a parking area unless vehicle wheel stops are provided.
- Trees should not be planted where traffic line-of-sight is compromised at intersections.

MINIMUM SIZE

Trees planted in the public street tree lawn must be a minimum one and three-quarter (1 ¾) inch diameter caliper. (Tree diameter is measured six (6) inches above ground level.)

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>	<u>RECOMMENDED CULTIVARS</u>
Hedge Maple	<i>Acer campestre</i>	
Nikko Maple	<i>Acer nikoense</i>	
Autumn Flame Red Maple	<i>Acer rubrum</i>	‘Autumn Flame’
Roughbark or Three-Flowered Maple	<i>Acer triflorum</i>	
Downy Serviceberry	<i>Amelanchier arborea</i>	
Whitespire Birch	<i>Betula platyphlla japonica</i>	‘Whitespire’
European Hornbeam	<i>Carpinus betulus</i>	‘Fastigata’
American Hornbeam/Blue Beech	<i>Carpinus caroliniana</i>	
Katsura Tree	<i>Cercidiphyllum japonicum</i>	
Yellowwood	<i>Cladrastis lutea</i>	
Turkish Filbert	<i>Corylus colurna</i>	
Golden Raintree*	<i>Koelreuteria paniculata</i>	
Magnolia	species	
Hop Hornbeam or Ironwood	<i>Ostrya virginiana</i>	
Flowering Callery Pear	<i>Pyrus calleryana</i>	‘Aristocrat’, ‘Chanticleer’, ‘Cleveland Select’
Purple Robe Locust	<i>Robinia x ambigua</i>	

Note: Norway Maple, while an attractive and hardy urban tree, is now considered invasive because its species regenerates prolifically through heavy seed drops.

*Golden Raintree should come from northern seed sources and nurseries. Extreme cold may damage the tree.

TABLE 5: LARGE TREE SPECIES FOR LARGE SPACES

Large trees are defined as those trees attaining a height of forty-five (45) feet or more at maturity. Large shade trees are recommended for planting wherever room allows, as they help increase Bloomington's overall tree canopy and provide numerous environmental benefits. Native trees are noted in bold.

DISTANCE FROM INFRASTRUCTURE:

- Plant no closer than four (4) feet from street, sidewalk, or curb.
- Minimum grow space of eight (8) feet of tree lawn.
- Do not plant under or within twenty (20) lateral feet of any overhead utility lines.
- Do not plant within five (5) feet of any underground utility (phone, sewer, water, cable, electric).
- Do not plant within ten (10) feet of any utility pole or fire hydrant.
- Do not plant within three (3) feet of a parking area unless vehicle wheel stops are provided.
- Trees should not be planted where traffic line-of-sight is compromised at intersections.

MINIMUM SIZE

Trees planted in the public street tree lawn must be a minimum one and three-quarters (1 ¾) inch diameter caliper. (Tree diameter is measured six (6) inches above ground level.)

COMMON NAME	SCIENTIFIC NAME	RECOMMENDED CULTIVARS
Black Maple	<i>Acer nigrum</i>	'Greencolumn'
Red Maple	<i>Acer rubrum</i>	'Armstrong,' 'October Glory,' 'Red Sunset,' 'Northwood'
Sugar Maple	<i>Acer saccharum</i>	'Bonfire,' 'Commemoration,' 'Endowment,' 'Green Mountain,' 'Legacy' (do not plant too deep)
Sugar Hackberry	<i>Celtis laevigata</i>	
Hackberry	<i>Celtis occidentalis</i>	
American Beech	<i>Fagus grandfolia</i>	
European Beech	<i>Fagus sylvatica</i>	
Ginkgo	<i>Ginkgo biloba</i>	Male clones only
Thornless Honeylocust	<i>Gleditsia triacanthos inermis</i>	'Imperial,' 'Shademaster,' 'Skyline,' 'Sunburst'
Kentucky Coffeetree	<i>Gymnocladus dioica</i>	Male clones only
Sweetgum	<i>Liquidambar styraciflua</i>	Seedless only
Tulip Tree	<i>Liriodendron tulipifera</i>	
Cucumbertree	<i>Magnolia acuminata</i>	
Blackgum / Tupelo	<i>Nyssa sylvatica</i>	
London Planetree	<i>Platanus x acerfolia</i>	'Bloodgood'
Sycamore	<i>Platanus occidentalis</i>	
White Oak	<i>Quercus alba</i>	
Sawtooth Oak	<i>Quercus acutissima</i>	
Swamp White Oak	<i>Quercus bicolor</i>	
Scarlet Oak	<i>Quercus coccinea</i>	
Shingle Oak	<i>Quercus imbricaria</i>	
Bur Oak	<i>Quercus macrocarpa</i>	(needs grow space of 12' or more)
English Oak	<i>Quercus robur</i>	(susceptible to powdery mildew)
Red Oak	<i>Quercus rubra</i>	
Shumard Oak	<i>Quercus shumardii</i>	
Black Oak	<i>Quercus velutina</i>	
Bald Cypress	<i>Taxodium distichum</i>	

Basswood or American Linden	<i>Tilia Americana</i>	'Boulevard,' 'Redmond'
Littleleaf Linden	<i>Tilia cordata</i>	'Glenleven,' 'Greenspire'
Silver Linden	<i>Tilia tomentosa</i>	
Crimean Linden	<i>Tilia x euchiora</i>	
Homestead Elm	<i>Ulmus x</i>	'Homestead'
Japanese Zelkova	<i>Zelkova serrata</i>	'Green Vase'

* Please note, recently Ash was removed from the recommended tree list due to susceptibility to the Emerald Ash Borer insect pest. Norway Maple was also removed due to invasive seeding.

TABLE 6: UNDESIREABLE TREE SPECIES FOR STREET TREES

These trees shall not be planted along public streets. Undesirable characteristics are listed. Evergreens are acceptable on public sites only where visibility is not a problem.

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>	<u>PROBLEMS</u>
Fir	<i>Abies sp.</i>	visibility obstruction
Boxelder	<i>Acer negundo</i>	weak wood, poor form, invasive seed
Silver Maple	<i>Acer saccharinum</i>	weak wood, poor form
Norway Maple	<i>Acer platanoides</i>	invasive seed
Tree of Heaven	<i>Ailanthus altissima</i>	invasive seed, weak wood
White Paper Birch	<i>Betula papyrifera</i>	borer insects, short lived
Catalpa	<i>Catalpa speciosa</i>	messy fruit
Persimmon	<i>Diospyros virginiana</i>	messy fruit
Russian Olive	<i>Eleagnus angustifolia</i>	disease prone
Ash, White and Green	<i>Fraxinus sp.</i>	Emerald Ash borer prone
Black Walnut, Butternut	<i>Juglans sp.</i>	messy fruit, alleotrophy
Juniper	<i>Juniper sp.</i>	visibility obstruction
Tulip Poplar	<i>Liriodendron tulipifera</i>	weak wood
Common Crabapple	<i>Malus sp. (unimproved)</i>	messy fruit, disease prone
Osage Orange	<i>Maclura pomifera</i>	messy fruit
White Mulberry	<i>Morus alba</i>	messy fruit, somewhat invasive
Spruce	<i>Picea sp.</i>	visibility problems
Pine	<i>Pinus sp.</i>	visibility problems
Cottonwood	<i>Populus deltoides</i>	weak wood, messy seed
Lombardy Poplar	<i>Populus sp. 'Lombardy'</i>	canker disease, weak wood
Aspen	<i>Populus tremuloides</i>	weak wood
Common Cherry, Black Cherry	<i>Prunus sp.</i>	messy fruit, insect problems
Black Locust	<i>Robinia psuedoacacia</i>	cankers, borers, breakage prone
Willow	<i>Salix sp.</i>	weak wood, invasive roots, messy
Mountain Ash	<i>Sorbus sp.</i>	thrives poorly here
Arborvitae	<i>Thuja sp.</i>	visibility problems
American Elm	<i>Ulmus americana</i>	disease prone
Red, Slippery Elm	<i>Ulmus rubra</i>	disease problems
Siberian Elm	<i>Ulmus pumila</i>	disease prone, weak wood, messy

PLEASE NOTE:

- *Fast growing trees are weak wooded trees and are susceptible to storm damage.*
- *Do not plant an unknown seedling, which is very likely an undesirable species.*
- *Avoid buying and planting cheap trees that have poor form or are partially dead.*

TABLE 7: TREES TOLERANT OF URBAN CONDITIONS

Urban sites often have poor soils and are exposed to stresses like pollution and road salt. These trees have proven to be most tolerant of such conditions and are good choices for tough sites.

Amur Maple	Flowering Pear	Honey Locust
Basswood	Ginko	Kentucky Coffeetree
Black Maple	Golden Raintree	Littleleaf Linden
Bur Oak	Hackberry	London Planetree
Crabapple	Hawthorn	Redbud
Cucumber Magnolia	Hedge Maple	Shingle Oak

TABLE 8: TREES SLOW TO RECOVER FROM TRANSPLANTING

American Hornbeam	Hackberry	Serviceberry
Flowering Dogwood	Kentucky Coffeetree	
Ginko	Magnolia	

TABLE 9: PLANTING SEASON BY SPECIES

Experience in tree planting has shown that certain trees have a higher survival rate when dug and balled and burlapped in the spring. The following two lists show the season that trees are normally dug at the nursery and out-planted. While containerized trees can be planted during most of the growing season, balled and burlapped trees should be planted when they are dormant (the leaves are off). This is usually October 20 through May 1 in northern Indiana. Trees can be planted in winter as long as the ground is not frozen and the root ball is kept from freezing. Balled and burlapped trees can be planted while in leaf if extra care is taken to maintain constant root ball moisture and to protect the fragile leaves from desiccation.

SPRING PLANTING ONLY

Bald Cypress	Flowering Plum	Oak, all(summer watering required)
Black Gum /Tupelo	Golden Raintree	
Cucumber Magnolia	Hackberry	Red Maple
Flowering Cherry	Hawthorns, all	Sweetgum
Flowering Dogwood	Kousa Dogwood	Zelkova
Flowering Pear	London Planetree	

FALL OR SPRING PLANTING

Amur Maple	Crabapples	Honey Locust
Basswood Linden	Ginko	Japanese Tree Lilac
Black Maple	Hedge Maple	Kentucky Coffeetree
Littleleaf Linden	River Birch	Sugar Maple
Redbud	Serviceberry	

TABLE 10: TREES FAVORED BY JAPANESE BEETLES

The following trees may be defoliated in areas where Japanese Beetles are numerous in July and August. Avoid them if a local problem exists.

Crabapple
Flowering Cherry

Flowering Plum
Linden

Littleleaf Linden
River Birch

ORDINANCE 08-06

**TO AMEND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “STREETS, SIDEWALKS AND STORM SEWERS”**

**Re: Repealing Chapter 24 Entitled “TREES”, and Replacing it with Chapter 24
Entitled “TREES AND FLORA”**

- WHEREAS, the designation “Tree City” is one in which the government and citizens of Bloomington take pride and wish to see expressed in the actions and attitudes taken toward trees in the public rights of way; and
- WHEREAS, a diverse and sustainable urban forest has numerous environmental benefits including: cleaning the air; cooling buildings in summer and reducing heating costs in winter; reducing storm water load; preventing soil erosion; providing wildlife habitat; and increasing the pleasures of living in the City; and
- WHEREAS, pursuant to Indiana Code 36-10-4, *et. seq.*, the statute entitled “Parks Department in Certain Cities” was adopted by the Common Council in its entirety; and
- WHEREAS, under the above-mentioned authority, the Board of Park Commissioners has exclusive control over the planting, trimming, and maintenance of trees on public property and in the public rights of way of the City; and
- WHEREAS, the selection, planting, maintenance, and removal of trees, flora, and lawns along and on public ways substantially affect matters such as pedestrian safety, vehicular safety, location and maintenance of utility services, and quality of life for residents of the City; and
- WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

- SECTION I: Title 12 Chapter 24 entitled “TREES” shall be repealed and the reference to it shall be deleted from the table of contents for that title.
- SECTION II: A replacement ordinance, entitled Chapter 12.24, “TREES AND FLORA” is hereby adopted. Reference to the Chapter shall appear in the table of contents for Title 12 entitled “Streets, Sidewalks, and Storm Sewers” and the provisions of Chapter 12.24 shall read as follows:

TREES AND FLORA

Sections:

- 12.24.000 Purpose and Intent
- 12.24.010 Definitions
- 12.24.020 City Authority
- 12.24.030 Tree Lawn Area Maintenance
- 12.24.040 Public Safety and Required Clearances
- 12.24.050 Notice of Tree Removal by City
- 12.24.060 Removal of Stumps
- 12.24.070 Tree Work Permits
- 12.24.080 Prohibited Actions
- 12.24.090 Tree Topping Banned
- 12.24.100 Public Nuisance
- 12.24.110 Notice of Violation

- 12.24.120 Violations and Penalties
- 12.24.130 Appeal

12.24.000 Purpose and Intent

It is the purpose of this chapter to regulate the work on and planting and maintenance of boundary trees and trees on public property and in the public rights of way (“trees subject to these provisions”) and flora on public property and in the public rights of way, to encourage proper selection and planting, and to assure compatibility with other urban infrastructure such as utilities, sidewalks, and streets.

It is the intent of this Chapter to establish the responsibilities of the City and its residents toward flora and trees subject to these provisions and to assure those regulations and policies maintain and increase the tree canopy within the City.

12.24.010 Definitions

Whenever in this chapter the following words are used, they shall have the meanings respectively ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number, and words in the plural number include the singular number. The term “shall” is always mandatory and not merely directory. Terms not defined in this section shall have the meanings customarily assigned to them.

“Approved Street Tree Species List” means a list of proven trees deemed adaptable to the street conditions of the City of Bloomington. The list is located in the City of Bloomington Tree Work Manual.

“Board” means the Board of Park Commissioners of the City of Bloomington, Indiana.

“Boundary Tree” means a tree that meets one (1) or more of the following criteria:

- a. The stem of the tree straddles the actual property line between the City public property and the adjoining property;
- b. The City and the adjoining property owner have previously agreed that the tree will identify the property boundary;
- c. The City and the adjoining property owner have previously agreed to share the cost of maintaining the tree.

A boundary tree is the common property of both landowners.

“City” means the City of Bloomington, Indiana, including but not limited to the Board of Park Commissioners, the Urban Forester, or the Board’s designated agent.

“City of Bloomington Tree Work Manual” means the official arboricultural specifications manual of tree work as adopted by the City which specifies the policies and recommended practices of urban forestry and which includes recommendations of size, spacing, and species of trees in urban forestry.

“Commission” means the Tree Commission as established in Bloomington Municipal Code section 2.20.150.

“Critical Root Zone” means a circular region measured outward from the tree trunk representing the essential area of the roots that must be maintained or protected for the tree’s survival. Critical root zone is one (1) foot in radial distance for every inch of tree diameter at breast height (“DBH”), with a minimum distance of eight (8) feet. For specimen trees, the formula changes to 1.5 feet for every inch of tree DBH.

“Crown,” also referred to as **“canopy,”** means the above ground parts of a tree consisting of the branches, stems, buds, fruit, and leaves.

“Department” means the Department of Parks and Recreation of the City of Bloomington, Indiana.

“Flora” means all plants, including shrubbery, but expressly excluding weeds and turf grass.

“Maintenance” means the trimming, care, pruning, protection, treating, and preservation of trees and flora.

“Notice of Violation” means a written notice of ordinance violation, as described in section 12.24.

“Owner” means the person in whom is vested the ownership, dominion or title of property.

“Park Trees” means trees on City owned platted park areas.

“Person” means an individual, partnership, limited-liability company, corporation, firm, any other association or its agents or organization of any kind.

“Public Street” means the entire area between the boundary lines of every dedicated right of way platted for and open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic within the corporate limits of the City.

“Right of Way” means a strip of land reserved for, occupied, or intended to be occupied by transportation facilities, public utilities, or other special public uses. Right of way may be held in the form of easement or fee.

“Shrub” means a woody plant which is characteristically below twenty (20) feet in height and is multi-stemmed supporting mainly leafy growth.

“Specimen Tree” means any tree or grouping of trees that has been determined by the Urban Forester to be of high value because of its species, size, age, form, or historical significance.

“Street Tree” means a tree on real estate abutting a public street or right of way that is owned or controlled by the City.

“Topping” means the severe cutting back to stubs of limbs larger than three (3) inches in diameter within the tree’s crown so as to remove the normal canopy and disfigure the tree.

“Tree” means a perennial woody plant, ordinarily with one (1) main stem or trunk, which develops many branches, and which ordinarily grows to a height of twenty (20) feet or more.

“Tree Work” means the planting, pruning, removal, treating, spraying, and any other tree maintenance or horticultural work intended for the enhancement or preservation of trees, and the removal and prevention of any and all damages to any trees caused by tree pests, blights, and diseases. Tree work shall also include excavation near trees and the planting of shrubs within the public tree lawn.

“Tree Lawn,” also referred to as **“tree plot area,”** means the land lying between the boundary of the public street and private property except such portion covered by sidewalk or used as a walkway.

“Utilities” means both public and private utility companies.

12.24.020 City Authority

- (1) The City shall have the authority, control, supervision and direction over all flora and trees subject to these provisions.

- (2) The City shall have all the right and authority to order the removal of any tree or part thereof on private property which is deemed to be in an unsafe condition or which by the reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, telecommunication lines, or other public improvements, or is affected with any injurious fungus, insect or other pest which constitutes a potential threat to other trees within the City, or which constitutes a threat to public health or safety.
- (3) The City shall prepare and publish guidelines and specifications for tree planting, care, maintenance, and removal in a document entitled the City of Bloomington Tree Work Manual for reference and use by property owners, developers, consultants and the general public in furtherance of the requirements and intent of this Chapter. The Manual shall be developed and maintained with the assistance of the Commission.
- (4) The City shall review all applications for permits for any planting, removal and/or trimming or cutting of trees subject to these provisions and shall have the authority to grant or deny permits and to attach reasonable conditions to the granting of a permit.

12.24.030 Tree Lawn Area Maintenance

- (1) The City shall have all the right and authority granted to municipalities under law to require the owners of parcels of land adjacent to a public street to maintain and improve the street tree lawn area. Such maintenance and improvement shall include but is not limited to leaf raking, turf grass mowing, brush collection, and landscape bed maintenance.
- (2) The surface of tree lawn areas shall be as level as practicable, and the grade thereof shall be the top lines of the sidewalk and curb. No person shall pave, gravel, remove or otherwise convert existing grassed tree lawn areas.

12.24.040 Public Safety and Required Clearances

- (1) Flora planted on public property or in the public rights of way and trees subject to these provisions shall be sited as not to impede traffic visibility line of sight, at distances from street intersections as regulated by the City of Bloomington Unified Development Ordinance and recommended in the City of Bloomington Tree Work Manual.
- (2) Every owner shall remove or have removed all dead, diseased, or dangerous trees or flora, or broken or decayed limbs which overhang or may fall upon public property and which constitute a hazard to public safety. In addition, every owner shall properly prune or have properly pruned the branches of such tree(s) or flora so that the branches shall not obstruct any traffic control signs or devices, the view of any street intersection, or light from any street lamp,. There shall be a clearance standard space of fifteen (15) feet above any highway or street surface and eight (8) feet above any sidewalk surface to the bottom of the tree canopy.

12.24.050 Tree Removal

- (1) Except in emergency situations described in section 12.24.070 (4)(b), any tree subject to these provisions that is scheduled for removal by the City shall have an informational placard placed on the tree a minimum of ten (10) calendar days before tree removal. The placard shall specify the reason for tree removal, projected removal date, and contact information.
- (2) If removal of a tree subject to these provisions is necessary for construction purposes, the property owners shall pay for complete tree removal at their own costs and a replacement tree or trees of equal value planted on site or at a location owned or controlled by the City, and determined by the City.

12.24.60 Removal of Stumps

In the process of tree removal, stumps of trees subject to these provisions shall be ground to six (6) inches or more below ground level and the cavity filled with soil and leveled. Stump removal shall include the chipping of all limbs and removal of the stump.

12.24.070 Tree Work Permits

- (1) All tree work, performed on trees subject to these provisions, shall follow the standards as set forth in this chapter and in the City of Bloomington Tree Work Manual.
- (2) Except for the City and its agents, no person shall, unless otherwise noted herein, take the following actions without having first secured a Tree Work Permit:
 - (a) plant, cut, remove, or treat with pesticide any tree subject to these provisions, except as otherwise noted herein; or
 - (b) excavate any ditches, tunnels, or trenches, lay any drive, install underground utilities, or store any substance within a ten (10) foot radius of any tree subject to these provisions. When excavating, constructing or performing street work within a ten (10) foot radius of any tree subject to these provisions, the tree shall be guarded with a fence, frame, or box, not less than four (4) feet high and eight (8) feet by eight (8) feet square and all building material, dirt, or other debris shall be kept outside the barrier. Where heavy equipment will pass repeatedly over the tree's critical root zone a temporary layer of at least three (3) inches depth of shredded bark or wood chips shall be placed and maintained on the ground.
- (3) No permit shall be required in the following situations:
 - (a) the trimming, by a property owner, of limbs less than three (3) inches in diameter of any tree subject to these provisions in the tree plot adjoining the owner's property, which does not exceed thirty percent (30%) of the tree's canopy,
 - (b) during emergency situations, the City or public utilities may trim or remove any trees which endanger the public, inhibit the passage on City streets, or interfere with utilities and public infrastructure. Topping and the severe cutting back of limbs may be allowed under emergency conditions. The City may act without prior notification to the property owner,
 - (c) any tree work performed by a City department or its agents, or
 - (d) during road, curb, or sidewalk construction or utility installation or repair it may be necessary for the City to remove a non-hazard tree or trees. Trees in such situations shall be evaluated by the Urban Forester as to preservation potential.
- (4) Tree Work Permits are available without a charge from the Department. All permit applications shall be reviewed by the Department. The granting or denial of these permits shall be made in accordance with the policies and principles of urban forest management set forth in this chapter or as otherwise adopted by the Board.
- (5) Any tree work related to matters pending before the Board of Zoning Appeals, the Plan Commission, or the Common Council shall be accompanied by a completed Tree Work Permit. If the Board of Zoning Appeals, the Plan Commission, or the Common Council approves matters which will impact trees subject to these provisions, the Tree Work Permit is deemed automatically granted and shall be forwarded to the Department. Decisions by the Board of

Zoning Appeals, the Plan Commission, or the Common Council that impact trees subject to these provisions shall be made in accord with the policies and principles of urban forest management set forth in this chapter or as otherwise adopted by the Board.

- (6) When filing an application for a Tree Work Permit, the person responsible for performing tree removal, pruning, stump removal, or trenching near trees shall also file a single or continuous bond payable to the City in a sum, as the Department may designate. Bonds shall be filed with the Department and shall be conditioned to save the City harmless from any loss, cost, or damage by reason of such proposed work, and that the same shall be done in all respects in conformity to the requirements of this code and all other ordinances of the City regulating same. The applicant must be able to demonstrate to the City's satisfaction that it is of sound financial condition and is adequately bonded and insured. Unless otherwise mandated by the Board, posting a bond for tree planting activity is not required during the Tree Permit application process.

12.24.080 Prohibited Actions

- (1) No person shall in any manner obstruct or interfere with the agents or employees of the City while carrying out the provisions of this chapter or the orders issued by the Board.
- (2) No person shall do any of the following to trees subject to these provisions:
 - (a) damage, cut, carve, or deface;
 - (b) attach any wires, nails, chains, cables, advertising posters, or any other contrivance;
 - (c) allow contact with any harmful gaseous, solid, or liquid substance; or
 - (d) set fire or allow to burn.

12.24.090 Tree Topping Banned

It shall be unlawful for any person to top any tree subject to these provisions. Topping is defined in section 12.24.010. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning methods are impractical, may be exempted from this practice by a written determination by the Department.

12.24.100 Public Nuisance

All trees or flora within the City which are determined by the City to constitute a public hazard or threat to health, safety, life, or property may be declared to be a public nuisance. The Board may order removal of such nuisances or other violations of this Chapter.

12.24.110 Notice of Violation

- (1) If the Board or its designee determines that there is a violation of this Chapter or a public nuisance, the Board or its designee shall issue a Notice of Violation (NOV) to the responsible party. For purposes of issuing a NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: property owner(s); and persons who have caused the violation.
- (2) The NOV shall be served upon the responsible party by mailing a copy to that person's last known mailing address.

The notice shall include:

- (a) the address by legal description or street address of the location or premises of the trees or flora;
 - (b) the kind of tree or flora in violation of this ordinance;
 - (c) the sections of this ordinance for which the responsible party is in violation;
 - (d) any actions that the responsible party may undertake to abate such violation and the time period specified to abate such violation;
 - (e) the fact that a penalty may be assessed pursuant to Bloomington Municipal Code section 12.24.120; and
 - (f) the date after which the City may abate the nuisance or violation.
- (3) The City shall, upon order of the Board, take steps to remedy the violation. If the responsible party fails to remedy the violation cited in the NOV during the correction period, the City legal department may bring suit in a court of competent jurisdiction to collect the accumulated fines, and any other costs associated with the remedy of the violation as are allowed by law, and any other remedies available, including but not limited to injunctive relief.
- (4) If a property owner fails to abate the violation cited in the NOV and the City remedies the violation, the controller shall make a certified statement of the actual cost incurred by the City for the action. The statement shall be served on the landowner by certified mail. The landowner shall pay the amount in the statement to the City Legal Department within ten (10) calendar days of receiving it. If the property owner should fail to pay within the ten (10) day period, a certified copy of the statement of costs shall be filed in the offices of the County Auditor. The Auditor shall place the amount claimed on the tax duplicate against the property affected by the work. The amount shall be collected as taxes are and disbursed to the general fund of the City.

12.24.120 Violation and Penalties

- (1) Any person violating any of the provisions of this chapter may be issued an official warning.
- (2) Any person violating any of the provisions of this chapter shall, upon a written Notice of Violation (NOV), be subject to a penalty up to the statutory limit as described in Indiana Code 36-1-3-8, as amended.

12.24.130 Appeal

Any person aggrieved by the Department's denial of a Tree Work Permit or in the issuance of a Notice of Violation shall have the right of appeal to the Board. Such appeal shall be taken by filing with the Board, within ten (10) calendar days after the action complained of, a written statement setting forth fully the grounds for the appeal. The Board shall issue its written findings. The decision and order of the Board on such appeal shall be final and conclusive.

All appeals from written findings of the Board shall be made to a court of competent jurisdiction within ten (10) calendar days of the issuance of the findings.

SECTION III. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION IV. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor, and publication in accordance with State law.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2008.

SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2008.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2008.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance shifts the authority and administration for the care of public trees from the Board of Public Works to the Board of Park Commissioners. This ordinance also clarifies the City’s decision-making authority regarding public trees and the tree lawn. The expanded definition section assists the reader in understanding the terms used throughout the ordinance. Procedures for implementing the permitting process and for appealing a decision made by the Board of Park Commissioners are provided. This ordinance references, but does not incorporate, the City of Bloomington Tree Work Manual, which contains approved tree lists and guidelines and specifications to be used to carry out the intent of this ordinance.

Corporation Counsel
Kevin R. Robling

City Attorney
Margie Rice

Assistant City Attorneys
Susan Failey
Jacquelyn F. Moore
Patricia M. Mulvihill
Vickie Renfrow
Margie Goodwin Schrader

TO: Members, City of Bloomington Common Council

CC: Mark Kruzan, Mayor
Maria Heslin, Deputy Mayor
Kevin R. Robling, Corporation Counsel
Dan Sherman, City Council Attorney

FROM: Margie Rice, City Attorney
Jackie Moore and Margie Schrader, Assistant City Attorneys

DATE: April 9, 2008

RE: Revisions to Bloomington Municipal Code regarding the City of Bloomington's Tree Ordinance

This memo provides a general outline of the proposed Tree Ordinance, which is a complete overhaul of Title 12, Chapter 24, of the Bloomington Municipal Code ("BMC"). Because of requests for significant amendments to this chapter of the BMC, the Tree Commission in 2006 enlisted the help of a professional forester to draft entirely new provisions. The draft presented by the professional forester served as the starting point for the proposed ordinance before you for consideration.

Two points about the proposed Tree Ordinance are worth mentioning up front. This proposed ordinance shifts the authority and administration for the care of trees on public property, touching public property and trees in public rights of way (hereinafter referred to, for purposes of this memo only, as "public trees") from the Board of Public Works to the Board of Park Commissioners. This shift is called for because the City of Bloomington previously incorporated provisions of the Indiana Code, which gives this authority to the Board of Park Commissioners. The shift also follows the City's organizational structure. The second point is that these proposed provisions reflect a conscious effort by the City of Bloomington to consistently exercise control over public trees and the tree lawn. The proposed ordinance no longer confuses the authority for making decisions regarding public trees and the tree lawn, but places it squarely within the control of the City. Given the value and priority our community places on our public parks and tree-lined streets, and the investment made to our City's tree inventory, such clarity in decision-making authority makes sense.

Highlights of the proposed Tree Ordinance are listed below:

- The definition section has been expanded from eight to twenty-five definitions, in order to help the reader understand the terms used throughout the ordinance.

- The ordinance references, but does not incorporate, the City of Bloomington Tree Work Manual. The Manual, approved by the Tree Commission and, ultimately, the Board of Parks Commissioners sets forth the approved tree list, and guidelines and specifications to be used by the public in furtherance of the requirements and the intent of this chapter of the BMC. It is important to note that all possible violations are spelled out in the proposed ordinance. Violations will not be made for failure to follow the Manual, per se, but failure to obtain or abide by a permit for tree work will be grounds for a Notice of Violation.
- Section 12.24.070 anticipates a permitting process, as does the current ordinance. In order to actually implement the process, which has not been done before, specific steps and procedures, including an “Application for Tree Work Permit” have been written. The Parks and Recreation Department will review and grant or deny all permits. An appeal process to the Board of Park Commissioners is described in section 12.24.130.

APPLICATION FOR
TREE WORK PERMIT

Fill out all information below

Site (if address is unknown, fill in (A) and (B)):

1. Address _____ Zip Code _____

(A) N, S, E, or W side of _____ (B) _____ feet N, S, E, or W from intersection of _____

2. Subdivision _____ Lot Number _____

3. Applicant: _____
Name _____ Street Address _____

City _____ State _____ Zip _____ Phone _____ Email _____

Contractor (name and phone number): _____

Plans by (name and phone number): _____

Proposed Work: Plant • Prune • Remove • Apply Chemical • Work within 15 feet of • Otherwise affect (explain): _____

Number of trees affected _____ Size of each tree _____

Width of tree lawn _____ Species of each tree _____

Circle all present within 15 ft: Overhead wires • Underground wires • Gas • Water • Fire Plug • Sewer • Street light • Traffic signs or lights

Explain exactly what you wish to do and why (attach additional plans if necessary): _____

*Work to begin: _____ Date _____ *Work to end: _____ Date _____ *Permit valid only during this period unless extended by Department..

The applicant named above shall fully complete and sign this form. Unless otherwise approved by the Department of Parks and Recreation, this application must be submitted at least seven (7) days prior to date work is to begin. The permit is not valid until signed by the Department. Please keep a copy of the signed permit for your records. The applicant or his agent is solely responsible for providing notice as required by state law to all underground utilities before commencing an excavation.

By signing below I affirm that the information provided above is true. I agree to abide by any and all conditions imposed below. I agree to indemnify and hold harmless the City, the Board, and the officers, agents and employees of the City and the Board from any and all claims, demands, damages, costs, expenses or other liability arising out of the reckless or negligent act or omission or any willful misconduct on the part of the applicant or any contractors retained by the applicant for work under this permit. If I disagree with the denial of this permit or any conditions imposed, I may appeal in writing within ten (10) days to the Board of Park Commissioners.

Signed _____ Date _____

Do Not Write Below

Date Received: _____ Findings if different than information: _____

Conditions for approval or reasons for rejection:

- ☐ ANSI A300 – Standards for Pruning, Guying, Fertilizing, Spraying and Lightning Protection of Shade Trees
☐ ANSI Z133.1 – Safety Requirements for Tree Care and Removing Trees and Cutting Brush
☐ ANSI Z60.1 – American Standard for Nursery Stock

Approved ☐

Rejected ☐

Signature _____ Date _____

Department of Parks & Recreation