

CITY OF GENOA
DEKALB COUNTY, ILLINOIS

ORDINANCE NO. 2023- 17

ADOPTED BY
THE MAYOR AND
CITY COUNCIL
OF THE
CITY OF GENOA

AN ORDINANCE AMENDING TITLE 7, PUBLIC WAYS AND PROPERTY,
CHAPTER 4, TREES, SHRUBS, AND OTHER PLANTS, OF THE MUNICIPAL
CODE OF THE CITY OF GENOA

Adopted October 18, 2023, by the Mayor and City Council of the City of Genoa
DeKalb County, Illinois, and approved and published in pamphlet form
This 18th day of October 2023.

ORDINANCE NO. 2023- 17
AN ORDINANCE AMENDING TITLE 7, PUBLIC WAYS AND PROPERTY, CHAPTER
4, TREES, SHRUBS, AND OTHER PLANTS

WHEREAS, the City of Genoa received grant funding to plant over 200 new trees in 2023; and

WHEREAS, the grant requirements state that recipients' ordinances must include certain language pertaining to trees; and

WHEREAS, the Public Works Department has reviewed the City's ordinances and determined that some changes are necessary;

NOW THEREFORE, BE IT ORDAINED the Municipal Code of the City of Genoa be amended as follows:

SECTION 1: That Title 7, Chapter 4 be amended as shown below:

CHAPTER 4
TREES, SHRUBS AND OTHER PLANTS

SECTION:

7-4-1: Purpose

7-4-2: Statement of Value

7-4-3: Definitions

7-4-4: Permits

7-4-5: Regulations

7-4-6: Public Nuisances

7-4-7: Arborist License and Bond

7-4-8: Interference with Director of Public Works

7-4-9: Violation and Penalty

7-4-1: PURPOSE:

The purpose of this section is to regulate trees and shrubs located on public property, ensure the protection and maintenance of existing trees, recognize trees as critical infrastructure for the city, and to promote the planting, preservation, maintenance, restoration and survival of desirable trees, shrubs and other plants within the City rights-of-way and on City owned property. Furthermore, this section shall promote the protection of residents from personal injury and/or property damage, and the protection of the City from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within or upon City rights-of-way or on

other public property owned by the City. This Chapter will regulate public property trees but recognizes that trees on private property are part of the collective community resource.

7-4-2: STATEMENT OF VALUE:

Trees provide a wide range of benefits to the city. Healthy trees appreciate in value as they mature, unlike other components of the infrastructure that continually depreciate over time. Trees need sufficient soil, water, and air to survive. Protecting existing natural resources and planning for the establishment and care of new trees will enhance the economic and environmental health of the city.

It is recognized that trees are infrastructure and a capital asset (a significant, highly valuable property) for the community, and shall be managed and preserved as such. Trees provide the following services and benefits:

1. Trees absorb pollution from the air;
2. Trees absorb and sequester carbon dioxide;
3. Trees absorb and filter pollution from stormwater run-off;
4. Trees produce oxygen;
5. Trees reduce flooding;
6. Trees stabilize soils and reduce erosion;
7. Trees cool the surrounding area helping to reduce impacts due to heat islands;
8. Trees reduce energy consumption by shielding structures from harsh winds and sun;
9. Trees provide a buffer and screen against noise, light and pollution;
10. Trees improve property values;
11. Trees improve commercial district traffic and purchasing;
12. Areas with trees have lower crime rates;
13. Areas with trees have higher levels of community interaction;
14. Trees provide important habitat for birds and other wildlife; and
15. Trees protect and enhance our quality of life.

7-4-3: DEFINITIONS:

As used within this Chapter, the following terms shall have the meanings set forth in this Section:

ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE FOR GENOA, ILLINOIS (hereinafter, "Arboricultural Specifications Manual"): A manual prepared by the Tree Board pursuant to Ordinance 868 containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants upon City-owned property .

The Arboricultural Specifications Manual provides the requirements and standards that are derived from the Urban Forestry Plan and are used as City policy to regulate tree planting practices and tree maintenance for trees that are located on City property, i.e. parkway trees.

CITY-OWNED PROPERTY: Property within the City limits of Genoa, Illinois and: 1) owned by the City in fee simple absolute, or 2) implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements.

DBH: Diameter breast height, measured at four and five-tenths feet (4.5') above ground.

LARGE TREES: Those trees attaining a height of forty five feet (45') or more.

MEDIUM TREES: Those trees attaining a height of thirty feet (30') to forty five feet (45').

PARK: All public parks having individual names.

PARKWAY: The area along a public street between the curb and the sidewalk or if there is no curb or sidewalk, the unpaved portion of the area between the **property line** and the paved portion of the street or alley.

PRINCIPAL THOROUGHFARE: Any street upon which trucks are not prohibited.

PROPERTY LINE: The outer edge of a street or highway.

PROPERTY OWNER: The record owner or contract purchaser of any parcel of land.

PUBLIC PLACES: All other grounds owned by the Municipality of Genoa, County of DeKalb, State of Illinois.

PUBLIC/PARKWAY TREES: All shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

RIGHTS-OF-WAY: The privilege of the immediate use of the roadway or other property, including the surface of and the space above or below any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, or drive.

SMALL TREES: Those attaining a height of twenty feet (20') to thirty feet (30').

STREET or HIGHWAY: The entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

TOPPING: The severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

TREEBANK: That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. (Ord. 867, 7-12-94) (Ord 32, 10-18-11) (Ord 2011-32, 10-18-11)

7-4-4: PERMITS:

- A. A Public Tree Protection permit is required for any building permit that involves the construction of a new building, structure, site improvements, and any type of remodeling, roofing, flat work, fencing, and paver brick work.
- B. A Public Tree Planting, Removal and Pesticide Treatment permit is required for planting a tree(s), removal, and pesticide treatment to and parkway tree(s) located in the City right-of-ways.
- C. New development shall include parkway trees as part of the public improvements required letter of credit.
 - 1. A building permit fee is required to be paid by the applicant to pay the City's cost to install the number of trees required for each zoning lot. The cost per tree for the 2017-planting year cycle is \$300.00 and is subject to change based on availability of nursery stock, labor, and administrative fees (Ord. 2017-15, 04-18-2017).
 - 2. The fee is required to be paid by the applicant before the building permit can be approved. The City will install the tree or trees subject to the approved occupancy permit and the seasonal tree planting schedule.
 - 3. The spring planting schedule is from the 3rd week of April to the 1st week in June and the fall planting schedule is from the 1st week of September to the 3rd week of October. The City will make every effort to install the applicable tree or trees as indicated in paragraph C unless otherwise determined by the Director of Public Works.

4. Permit required: No person except the Director of Public Works or his designee or the regulated electrical utility and their authorized agents or contractors may plant, spray, remove, cut below ground or otherwise damage any tree on any street or City-owned property without first filing an application and procuring a permit from the Finance Office Manager or otherwise specified municipal authority. The person receiving the permit shall abide by the "Arboricultural Specifications Manual".

D. Application for permit: Application for permits must be made at the office of the Finance Office Manager.

1. An application must be signed by the applicant and submitted to the Director of Public Works detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used and presenting any additional information that the Director of Public Works may find reasonably necessary; and
2. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Chapter, the Urban Forestry Plan and regulations and standards set forth in the "Arboricultural Specifications Manual"; and
3. The applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Chapter and of the "Arboricultural Specifications Manual" which are pertinent to the work for which the permit is sought; and
4. If the work for which a permit is issued entails the felling of any tree or part thereof, located on private **or public** property, which, as a result of such felling reasonably may be expected to fall upon City owned property, and if such felling is done by other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the City harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the City Clerk a liability insurance policy in the amount of one hundred thousand dollars (\$100,000.00) per person/three hundred thousand dollars (\$300,000.00) per accident for bodily injury liability and fifty thousand dollars (\$50,000.00) aggregate for property damage liability, which policy shall name the City as an additional insured.

E. Standard of Issuance: The Finance Office Manager or designee shall issue the permit provided for herein within fourteen (14) days if, in the judgement of the Director of Public Works, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void of its terms are violated.

F. Notice of Completion: Notice of completion shall be given within five (5) working days to the Director of Public Works for his inspection. (Ord 2011-32, 10-18-11)

7-4-5: REGULATIONS:

A. Improper Planting: Whenever any tree shall be planted or set out in conflict with the provisions of this Section, it shall be lawful for the Director of Public Works to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of assessments.

B. Removal, Replanting, and Replacement:

1. Whenever it is necessary to remove a tree or trees from a Parkway or Right-of-ways in connection with the replacement of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the Municipality shall replant such trees or replace them. Provided that conditions prevent planting on ~~treebanks~~ parkway or right-of-ways, this requirement will be satisfied if any equivalent number of trees of the ~~same size and species~~ as provided for in the arboricultural specifications are planted in an attractive manner on the adjoining property, or other public places, as conditions allow.
2. No person or property owner shall remove a tree from public places for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Finance Office and without replacing the removed tree or trees in accordance with the adopted arboricultural specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the Finance Office. The person or property owner shall bear the cost of removal and replacement of all trees removed (Ord 2015-19, 10-6-2015).
3. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

C. Obstruction; Trees Pruned:

1. Owner Responsibility: It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or ally intersection. The minimum clearance of any overhanging portion thereof shall be eight feet (8') over

sidewalks, and fourteen feet (14') over all streets. Except when a canopy to height ratio is appropriate, as determined by the City Arborist.

2. Notice to Prune: Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Director of Public Works shall order such person or persons, within ten (10) working days after receipt of written notice, to so prune such trees.
3. Order Required: The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.
4. Failure to Comply: When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Municipality to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

D. Abuse or Mutilation of Public Trees:

1. Unless specifically authorized by the Director of Public Works, no person shall intentionally damage, cut, carve, transplant, top, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree. Trees severely damaged by storms or other obstructions, where pruning techniques other than topping are impractical, may be exempted from this Chapter by the determination of the Director of Public Works.

E. Protection of Trees:

1. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four feet (4') high and eight feet (8') square, or at a distance in feet from the tree equal to the diameter of the trunk in inches breast diameter height, whichever is greater, and all vehicles, construction equipment, building materials, dirt, or other debris shall be kept outside the barrier.
2. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten feet (10') from any public tree without first obtaining a written permit from the Director of Public Works.

F. Public Utility Companies:

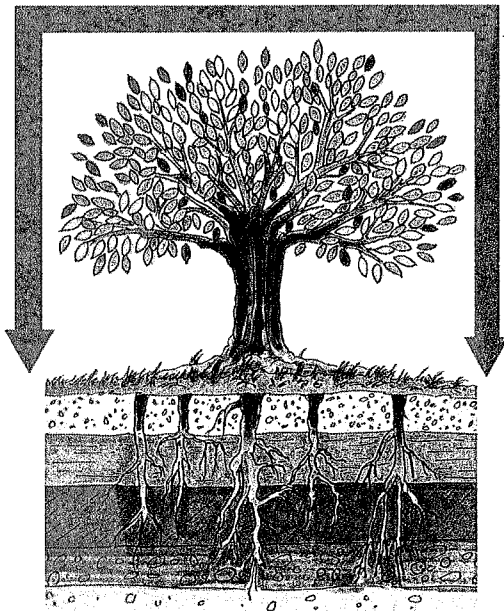
1. Public utility companies shall notify the Director of Public Works prior to pruning any tree located on City-owned property for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted

arboricultural standards. If accepted arboricultural standards are not followed, the Director of Public Works will immediately file a formal complaint with the State utility regulatory agency.

G. Placing Materials on Public Property:

1. No person shall deposit, place, store, or maintain upon any public place of the Municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, or fertilizer to the **Critical Root Zone** roots of any tree growing therein, except by written permit of the Director of Public Works. (Ord. 867, 7-12-94)

Critical Root Zone



Critical Root Zone, also referred to as the Tree Protection Zone, is the area of roots that require the most protection and care. Multiply the diameter of the trunk by 1.5 to arrive at the proper radius for the critical root zone.

(Diameter = circumference X 3.14)

Circumference is measured at least 4 feet above the ground.

7-4-6: PUBLIC NUISANCES:

A. Definition: The following are hereby declared public nuisances under this Chapter:

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

3. Any tree, shrub, or other plant or portion thereof whether located on City-owned property or on private property which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public;

4. Any tree, shrub, or other plant or portion thereof whether located on City-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street light;

5. Any tree, shrub, or other plant or portion thereof whether located on City-owned property or on private property which dangerously obstructs the view in the "sight distance triangle" as such may be determined by the City Engineer or the Director of Public Works pursuant to this Chapter (Ord 2014-28, 12-2-2014).

B. Right to Inspect:

1. The City shall remove any tree or part thereof that has been determined by the Director Public Works to be in an unsafe condition or which by reason of its nature is injurious to sewers, electric lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest. The officers, agents, servants, and employees of the City have the authority to enter onto private property whereupon there is located a tree, shrub, or plant part that is suspected to be a public nuisance. (Ord 2011-32, 10-18-11)

C. Abatement: The following are the prescribed means of abating public nuisances under this Chapter:

1. Any public nuisance under this Chapter which is located on City-owned property shall be pruned, removed, or otherwise treated by the Director of Public Works in whatever fashion is required to cause the abatement of the nuisance within ten (10) days after its discovery;
2. Any public nuisance under this Chapter which is located on private-owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
 - a. The Director of Public Works shall cause a written notice to be personally serviced or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year;
 - b. Such notice shall describe the kind of tree, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance;

- c. Such notice shall describe by legal description, or by street address, the premises;
 - d. Such notice shall state the actions that the property owner may undertake to abate the nuisance;
 - e. Such notice shall require the elimination of the nuisance no less than ten (10) days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year;
 - f. In the event that the nuisance is not abated by the date specified in the notice, the Director of Public Works is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be paid by the owner of the property, provided, however, the City may, at the discretion of the Director of Public Works, enter into a reimbursement agreement with the owner of the property. The reimbursement agreement would allow the owner to pay for the abatement performed by the City or the City's contractor by the making not more than twelve (12) monthly payments due on the same date as the City's charges for water and wastewater services. If the owner fails to pay the costs of abatement when demanded by the City or as described in the reimbursement agreement, the City may file a lien against the property on which the nuisance was abated in the amount of the reasonable costs of the abatement (Ord 2014-28, 12-2-2014).
3. The Director of Public Works is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Director of Public Works to be an immediate threat to any person or property.
4. The Director of Public Works is hereby empowered to seek from any court of competent jurisdiction an order directing immediate abatement of any public nuisance.
5. This Section is enforceable under Title 4, Chapter 1 of City Code of the City of Genoa. (Ord. 867, 7-12-94) (Ord 2011-32, 10-18-11)

7-4-7: ARBORIST LICENSE AND BOND:

It shall be unlawful for any person to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be twenty-five dollars (\$25.00) annually in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents or contractors or City employees doing such work in pursuit of their public service endeavors. Before any license shall be

issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of three hundred thousand dollars (\$300,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. 867, 7-12-94). **Professional or contracted forestry services shall be overseen by at least one Certified Arborist to perform tree care including but not limited to tree trimming, pruning, removal, and plant health care operations.**

7-4-8: ~~AUTHORITY~~INTERFERENCE WITH DIRECTOR OF PUBLIC WORKS:

The Director of Public Works and/or their designee, shall have full authority and responsibility to plant, prune, maintain, and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any tree that is affected by fungus, insect, or other pest disease.

All City departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.

The Director of Public Works and/or their designee shall possess a current and active arborist certification from the International Society of Arboriculture. No person shall unreasonably hinder, prevent, delay, or interfere with the Director of Public Works or his/her agents while engaged in the execution or enforcement of this Chapter. (Ord. 867, 7-12-94)

7-4-9: APPEALS, VIOLATION AND PENALTY:

1. Any person who violates this Chapter and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with section 1-4-1 . Where applicable, each day that a violation exists shall constitute a separate offense. The payment of a fine shall not relieve any violator of this Chapter from tree replacement requirements.

2. Any person aggrieved by a decision made by the Public Works Director's decision may appeal to the City of Genoa Tree Board within ten (10) business days after the date of the decision. The notice of appeal shall set forth concisely the decision and the reasons or grounds for the appeal. The City of Genoa Tree Board will issue a decision that affirms,

modifies, or reverses the administrative decision made by the Director within ten (5) business days following the next regularly scheduled or Special Meeting called to order after the appeal's issuance. The decision of the City of Genoa Tree Board, shall be final and no petition for reconsideration shall be available.

SECTION 2: That Title 1, Chapter 4, Section 1 be amended to include:

Title 7: Trees, Shrubs, and Other Plants

7-4-4	Failure to obtain required permit(s)	\$50
7-4-5 B 2-	Removal or Destruction of City Tree)	\$750
7-4-5 C 4	Obstruction by Private Property Tree	Mandatory
7-4-5 D	Abuse or Mutilation of Public Tree	\$250
7-4-5 E	Protection of Trees Violation	\$300
7-4-5 G	Materials Placed in Critical Root Zone	\$250
7-4-6	Public Nuisance Tree	\$250

SECTION 3: This ordinance shall be in full force and effect from and following its passage and approval.

Alderman Name	Aye	Nay	Abstain	Absent
Pam Wesner	✓			
Chris Pulley	✓			
Melissa Freund	✓			
Walter Stage				✓
Courtney Winter	✓			
Kendra Braheny	✓			
Gregg Hughes	✓			
Gary Roca	✓			
Mayor Jonathon Brust				

PASSED by the City Council of the City of Genoa, DeKalb County, Illinois this 18^m day of October, 2023.
Approved by me this 18^m day of October, 2023.


Jonathon Brust, Mayor



(SEAL)

ATTESTED and filed in my office this 18th day of October, 2023.

Rebecca Stevenson
Rebecca Stevenson, City Clerk