

2013 URBAN FOREST MASTER PLAN – SARATOGA SPRINGS

[NB: Cardinal Direction, the consultant that authored the UFMP, researched guidelines and models for tree ordinances along with examining tree ordinances in other similar regional towns and cities. The consultant included this annotated draft tree ordinance as Appendix B in the 2013 UFMP.]

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APPENDIX B - Chapter 220 Update – Sample Tree Ordinance

Chapter 220: Trees Saratoga Springs City Code Draft version (2013)

Discussion: Chapter 220 of the Code of the City of Saratoga Springs appears to date largely from around 1970. This early attempt at establishing a tree ordinance contains a number of provisions that protect the city’s publicly-owned trees, including:

- Placing the planting, removal, care, maintenance and protection of trees, plants and shrubs on public highways and public places under the jurisdiction of the Department of Public Works (DPW).
- Requiring a written permit from the DPW for removal, pruning or destruction of any city-owned tree, plant or shrub.
- Requiring a written permit from DPW for the planting of any tree on city streets or city land.
- Prohibiting the application of substances that may kill a tree, plant or shrub, or the attachment of signs, wires, chains, etc.
- Requiring landowners to trim trees if their branches protrude into streets or sidewalks and, if a landowner refuses, requiring DPW to do it.
- Authorizing DPW to trim or otherwise treat city trees, plants or shrubs if necessary to protect their health, and to remove them if necessary to protect public safety.
- Authorizing DPW to require landowners to treat or remove trees on private property to protect public trees from the spread of insects or diseases or other sources of injury.
- Providing for penalties for violations.

Many of the goals of the draft Urban Forest Master Plan could be promoted through adherence to the provisions of the existing ordinance. For instance, occasionally well-meaning homeowners plant trees in the city tree belt. Often, they choose inappropriate trees for that location invasive species, species that will grow tall and interfere with power lines, or small trees where a large tree would thrive. The enforcement of the existing requirement of a DPW permit for planting would involve the city arborist, who would assure that only trees of appropriate species and size would be planted in approved locations. Enforcement of the

requirement of a permit for pruning or tree removal would allow the city arborist to educate landowners about proper pruning practices and prevent unnecessary removal.

While the existing Chapter 220 provides a starting point, many important provisions of a modern, comprehensive tree ordinance are missing and actual DPW practices differ from it on many key points. The following draft both revises and expands the scope of the current Chapter 220, in order to make it a more effective vehicle for the implementation of the city's Urban Forest Master Plan.

Besides Chapter 220 of the city code, legal requirements affecting trees are also contained in the city's Zoning Ordinance and Subdivision Regulations. These also should be revised and expanded to accomplish the City's goals for the urban forest. To make it easy for city employees and the public to find all legal requirements affecting trees, these provisions should either be consolidated into a single tree ordinance or cross-referenced between Chapter 220 and the Zoning Ordinance.

This draft tree ordinance draws on many sources.

1. The International Society of Arboriculture provides excellent, detailed guidance about tree ordinances in their *Guidelines for Developing and Evaluating Tree Ordinances*, available at http://www.isa-arbor.com/education/resources/educ_TreeOrdinanceGuidelines.pdf
2. The New York State DEC webpages about designing tree ordinances are also useful, if far less comprehensive, and can be viewed at <http://www.dec.ny.gov/lands/5276.html>
3. This draft for a new tree ordinance makes some use of the current Chapter 220, but other tree ordinances from small cities in New York and Massachusetts were consulted and provided new language in the draft ordinance. Among the most useful were ordinances from Middletown, Auburn, North Tonawanda, Mount Pleasant, Glen Cove, and Rye in New York and from Chicopee, Granby, and Orleans in Massachusetts.

The following table compares the contents of the draft Chapter 220 to the recommendations for content and structure from the ISA and from DEC, as well as to the content of the current Chapter 220.

Draft Chapter 220 (2013)	DEC recommended contents	ISA recommended contents	Current Chapter 220 (1970 & amended)
CHAPTER 220: Trees (2013 draft)		1. Title	CHAPTER 220: Trees (1970 ordinance)
220-1. Finding & Intent; Purpose	I. Purpose	2. Findings 3. Purpose and intent	NOT in CHAP 220
220-2. Definitions	II. Definitions	4. Definitions 5. Determination of Definitions	NOT in CHAP 220
220-3. Establishment of a Tree Board	III. Establishment of a Tree Board	16. Establish a tree board	NOT in CHAP 220
220.4. Municipal Authority & Responsibility	IV. Municipal Authority and Responsibility	6. Jurisdiction	CHAP 220-1 - clarification required
220.5. Clarification of Title to & Responsibility for Trees	V. Clarification of Title to and Responsibility for Trees	6. Jurisdiction	CHAP 220-1 & 220-6 – clarification required
220.6 – Policies regarding trees – draw from Urban Forest Master Plan		7. Policies regarding trees -- draw from Urban Forest Master Plan	NOT in CHAP 220
220.7 – Local govt. disclaims liability		8. Local govt. disclaims liability	NOT in CHAP 220
220.8 – Tree Welfare: protection, removal, planting, permits and petitions, prohibited activities	VI. Planting, Maintenance and Removal – IX. Prohibited Activities X. Tree Protection XI. Permits	29. Harming public trees forbidden 30. Permit required for activities that may damage public trees 31. Permit required for activities re: protected private trees	Some of this is in current CHAP 220, but much of this is not; see esp. the current 220-2, 220-3, 220-4, 220-5, 220-6
220.9 – Interference with city officials		9. Interference with city officials	NOT in CHAP 220
220.10 - Trees on Private Property Trees	VII. Trees on Private Property Trees –		CHAP 220-6.B, C, D – clarification required
220.11 - Requirements of Professionals	VIII. Requirements of Professionals –	28. Licensing of professionals	NOT in CHAP 220
220.12 - Enforcement, Penalties and Appeal	XII. Enforcement, Penalties and Appeal -		See 220-7 & 220-8
220.13 – Severability	XIII. Severability –		NOT in CHAP 220
220.14 – Other	XIV. Other -		NOT in CHAP 220
Separate, appended document: Standards & Regulations	APPENDED: Standards & Regulations		

Chapter 220: Trees
Saratoga Springs City Code
Draft version (2013)

220.1 Finding & intent; Purpose

There is no such section in Chapter 220.

DEC: A clear statement of purpose or intent of this ordinance will help avoid ambiguity in interpretation.

Finding & Intent & Purpose

- A. [http://ecode360.com/12113512 - 12113512](http://ecode360.com/12113512-12113512)The City of Saratoga Springs hereby finds that the preservation and expansion of the urban forest will serve the public interest by improving the community's physical, social, cultural, and economic environment. Trees are a valuable asset, a cost-effective component of our urban infrastructure. They abate noise, provide welcome and energy-saving shade to people, reduce greenhouse gas emissions, enhance air quality, and reduce stormwater runoff and pollution. They also enhance the beauty of our City and provide a natural habitat for birds and other wildlife. Finally, trees contribute to the profitability of our retail, restaurant, and tourism businesses and increase real estate values in our neighborhoods. Since the benefits derived from the urban forest generally increase as tree size and canopy cover increase, it is in the best interest of our community to protect its existing tree assets and limit the removal of existing trees. Increasing the number of trees in our city (and the number of large-canopy trees in particular) will lower municipal and citizen costs in many areas, benefit the commercial viability of the city, and enhance the health, safety and general welfare of our citizens and visitors which municipalities are authorized to protect.
- B. It is the purpose and intent of this law to preserve and expand our urban forest by means of regulating the planting, maintenance and removal of trees on both public and private property, thereby maximizing the benefits trees provide to our community. To accomplish this, the law will establish the means to expand the urban forest through planning and planting, and to preserve the urban forest through regulation of the removal of trees within the City and through standards that insure the replacement of trees removed. By these means, we will promote the ecological, commercial, and aesthetic environment necessary for a healthy and prosperous community.

This ordinance establishes policies, regulations, and standards necessary to ensure that the city will continue to realize the benefits provided by its urban forest. The provisions of this ordinance are enacted to:

- A. Establish and maintain the maximum sustainable amount of tree cover on public and private lands in the city;*
- B. Maintain city trees in a healthy and nonhazardous condition through good arboricultural practices;*
- C. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.*

220.2 Definitions

There is no such section in Chapter 220.

DEC: Definitions of terms used in the ordinance such as street tree, adjacent property owner, drip-line, nuisance, etc., will prevent confusion in interpretation and enforcement of the ordinance.

DEFINITIONS [NOTE: this list includes terms not found in the current draft. When the draft is finalized, the list of definitions should be tailored to explain the key terms in the ordinance, adding those necessary and deleting those not needed.]

A. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein:

ABUTTING LANDOWNER The owner of property that touches, borders on, or is contiguous to the tree-lawn or public right-of-way.

CANOPY TREE PROTECTION ZONES All lands, whether public or private, within 25 feet of the curb line of any street or way.

CITY ARBORIST (or COMMISSIONER OF PUBLIC WORKS) The City Arborist or other qualified designated official of the City of Saratoga Springs assigned to carry out the enforcement of this article.

CROWN All portions of a tree excluding the trunk and roots, such as branches, leaves, flowers and other foliage.

CRITICAL ROOT ZONE (CRZ) The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk and extending outward towards the tree's drip-line. The minimum area of the CRZ shall be dependent on the required minimum radius of the CRZ; the required minimum radius of the CRZ shall be determined by multiplying a tree's dbh (in inches) by eighteen (18) inches, with the resulting product constituting the minimum radius of the CRZ. **EXAMPLE:** A tree with a dbh of twenty (20) inches shall have a CRZ with a minimum radius of 360 inches or 30 feet ($20'' \times 18'' = 360''$ or 30').

dbh (DIAMETER AT BREAST HEIGHT) The tree trunk diameter measured in inches at a height of 4 1/2 feet above the ground. If a tree splits into multiple trunks below 4 1/2 feet, then the trunk is measured at its most narrow point beneath the split.

DFS (DENSITY FACTOR SITE) The required density factor for the site.

DRIP-LINE - The area surrounding the tree from the trunk to the outermost branches. This area is distinguished from, and not to be confused with Critical Root Zone.

EDF (EXISTING DENSITY FACTOR) The number of trees remaining on site and protected during the construction phase.

LARGE TREES Those attaining a height of 45 feet or more. **MEDIUM TREES** Those attaining a height of 30 feet to 45 feet.

MUNICIPALITY The City of Saratoga Springs, County of Saratoga, State of New York.

PARK Includes all public parks having individual names.

PARKS DEPARTMENT The designated department of the municipality under whose jurisdiction the administration of the article falls.

PERSON Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIMARY TREE PROTECTION ZONE That portion of a building lot constituting the front, side and rear yard setbacks. In cases where the building setbacks appearing on the Zoning Map are greater than indicated in Chapter 218, Zoning, they shall be the controlling dimension.

PRINCIPAL THOROUGHFARE Any street upon which trucks are not prohibited.

PROPERTY LINE The outer edge of a street or highway.

PROPERTY OWNER The person owning such property as shown by the Tax Maps or assessment rolls of the City of Saratoga Springs.

PROTECTED TREES Any tree or tree species that shall be deemed protected or significant by the City Council.

PUBLIC PLACES Includes all other grounds owned by the City of Saratoga Springs.

PUBLIC TREES Includes all shade and ornamental trees now or hereafter growing on any street or any public area where otherwise indicated.

RDF (REPLACEMENT DENSITY FACTOR) The number of trees that must be planted on site to replace those that are removed or cut down.

RIGHT-OF-WAY City-owned or -controlled area of ground between the private property line and the edge of the curb or street.

TREE BELT That part of the 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.

TREE PROTECTION & MITIGATION PLAN - A plan submitted to the Building Department for review prior to the commencement of demolition and/or construction on a property on which a Protected Tree is located. This plan may be either part of a landscape plan and/or a separate plan.

TREE PROTECTION ZONE All tree belts, parks and other City-owned property, and all land within any right-of-way of any street or highway.

SMALL TREES Designated as those attaining a height of 20 feet to 30 feet.

SPECIMEN TREE

(1) Any tree in fair or better condition which equals or exceeds the following diameter sizes:

(a) Large hardwoods, e.g., oaks, hickories, sweetgums, etc.: 30 inches dbh.

(b) Large softwoods, e.g., pines, etc.: 36 inches dbh.

(c) Small trees, e.g., dogwoods, redbuds, sourwoods, etc.: 12 inches dbh.

(2) A tree in fair or better condition must meet the following minimum standards:

(a) A life expectancy of greater than 15 years.

(b) A relatively sound and solid trunk with no extensive decay or hollow and less than 20% radial trunk dieback.

(c) No more than one major and several minor dead limbs (hardwoods only).

(d) No major insect or pathological problem.

(3) A lesser-size tree can be considered a specimen if it is a rare or unusual species, of exceptional quality or of historical significance.

(4) A lesser-size tree can be considered a specimen if it is specifically used by a builder, developer or design professional as a focal point in a project or landscape.

SPECIMEN TREE STANDS A contiguous grouping of trees which has been determined to be of high value. Determination is based upon the following criteria:

(1) A relatively mature even-aged stand.

(2) A stand with purity of species composition or of a rare or unusual nature.

(3) A stand of historical significance.

(4) A stand with exceptional aesthetic quality.

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.

TDF (TREE DENSITY FACTOR) A unit of measurement used to prescribe and calculate tree coverage on a site. Unit measurements are based on tree size.

TREE Any woody plant having at least one well-defined trunk at least four inches in diameter measured at a height of four feet above the natural grade and having a clearly defined crown.

TREELAWN 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.

TREE PROTECTION, PRESERVATION AND REFORESTATION PLAN A plan identifying and showing the location, type, size and health of trees, stating the ultimate disposition of the trees, showing the type, size and location of any trees to be planted and setting forth measures to protect trees before, during and after construction.

TREE PROTECTION ZONE

TREE REMOVAL Any act which causes a tree to die within two years after the commission of said act, including but not limited to damage inflicted upon the root system or trunk as the result of: (1) Improper use of machinery on the tree. (2) Storage of materials in or around the tree. (3) Soil compaction. (4) Altering the natural grade to expose the roots or cover the trunk, permitting the infection or infestation of the tree by pests, fungus or harmful bacteria. (5) Excessive harmful pruning. (6) Paving with concrete, asphalt or other impervious surfaces within such proximity as to be harmful to the tree. (7) Application of herbicides or defoliant to any tree without first obtaining a permit from the approving agency.

1. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

220.3 Establishment of a Tree Board

There is no such section in Chapter 220.

Note: One of the requirements of the National Arbor Day Foundation for the recognition of a city as a Tree City USA is the establishment of a tree board or department legally responsible the management of city trees. The establishment of a volunteer advisory tree board, along with the designation of city arborist, would provide a solid foundation for effective management of the urban forest. Establishment includes defining membership, terms, powers, duties, and meetings.

- A. There is hereby created and established a Tree Board for the City of Saratoga Springs, New York, which shall consist of seven members who shall be residents of the City. Three board members shall be nominated by the Mayor and each other commissioner shall nominate one member to the Tree Board. All members shall be confirmed by vote of the full City. Members of the Tree Board will serve without compensation.
- B. To help coordinate the work of this Board with the other departments of government, the Commissioner of Public Works will designate the City Arborist or another employee of the Public Works Department to work with the Tree Board on an advisory basis. At the request of the Commissioner of Public Works, the Mayor can appoint a member of the Planning Office to this role. Lacking the appointment of such a member, the Tree Board will keep the City Council apprised of its activities by providing minutes of all meetings to all Commissioners.

- C. Term of office. The term of the seven persons appointed to the Tree Board shall be five years, except that the term of office of two of the members appointed to the first Board shall be for only three years, and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any one member, his successor shall be appointed for the unexpired portion of the term. Two of the members of the Tree Board shall be trained in, or have considerable experience in, in forestry, botany, horticulture or landscape design.
- D. Duties and responsibilities.
- (1) The Tree Board, working with the City Arborist, develops an annual written plan for the care, preservation, planting, replanting, and removal of trees and shrubs along streets and in parks and other public areas. Such plan will be presented annually to the City Council and, upon its acceptance and approval, shall constitute an addendum to the Urban Forest Master Plan for the City of Saratoga Springs, New York.
 - (2) The Tree Board advises the City Arborist on updates to the arboricultural manual;
 - (3) The Tree Board, working with the City Arborist, reviews petitions for the removal of street and park trees publicly at regular Board meetings, and approves or denies the petitions based on the criteria as defined in Section VI (Tree Welfare: protection, removal, planting, permits and petitions);
 - (4) The Tree Board reviews City plans and policies which contain matters relating to urban forestry, community values, arboriculture, and horticulture;
 - (5) The Tree Board recommends and reviews legislation regarding the urban forest;
 - (6) The Tree Board develops a program for identifying and maintaining trees in the city which have significant historical, cultural, environmental or public significance and makes recommendations to the City Council on adopting such a program;
 - (7) The Tree Board disseminates news and information emanating from its work to the City Council;
 - (8) The Tree Board may provide educational programs and information regarding the protection, maintenance, removal and planting of trees in the City.
 - (9) The Tree Board shall choose its own officers, make its own rules and regulations and keep minutes of its monthly meetings to be filed with the Department of Public Works. A majority of its members shall be a quorum for the transaction of business.

220.4 Municipal Authority and Responsibility

DEC: Who within the municipal government is responsible for administration of the ordinance? Is there a City Arborist? Does this person have authority for enforcement action? This section also defines and designates who is responsible for planting, care and protection of the urban trees.

There is no such section in Chapter 220.

§ 220-1. Jurisdiction of Department of Public Works.

The Department of Public Works shall have exclusive jurisdiction, authority, control and supervision of all trees, plants and shrubs planted or growing in or upon the public highways and public places of the City of Saratoga Springs and the planting, removal, care, maintenance and protection thereof.

This section will need to be expanded to define the authority of the City Arborist and of the Tree Board.

220.5 Clarification of Title to and Responsibility for Trees

No such section in Chapter 220.

DEC: This section clarifies which trees are publicly owned and which are privately owned. This section may also describe a process by which adjacent landowners may work on a street tree abutting their property within the standards set by the municipality.

Note: While the existing code describes the responsibilities of adjacent landowners to trim city-owned trees, it should be revised to clarify the standards to be met by landowners doing tree work under permit from DPW, and the involvement of the city arborist in education and enforcement of those standards. American National Standard Institute tree care standards (ANSI A300) should be incorporated.

220.6 Policies regarding trees

There is no such section in the current Chapter 220.

Note: Look for guidance on this topic from the ISA booklet, and draw the policies directly from the Urban Forest Master Plan that is adopted.

220.7 - Local government disclaims liability

No such section in Chapter 220.

- A. Nothing contained in this section shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the city.

220.8 TREE WELFARE: protection, removal, planting, permits and petitions

This section replaces several sections of Chapter 220, covering such issues as planting [220-5], maintenance requirements [220-4 & 220-6], and permits [220-2]. It is adapted from ordinances of several comparably sized cities in New York and Massachusetts.

DEC: Adjacent landowners may want to plant trees and work on trees on the public right-of-way abutting their property. This section describes how a landowner may do this in accordance with the forest management practices recommended in the City's ordinance. Be aware that if the process or cost of obtaining a permit is considered excessive, citizens will be less likely to comply with the ordinance.

220.8.1. Activities Requiring a Permit

- A. Construction activities, including sidewalk construction, repair, or replacement, within the drip line of a public tree that may be damaging to the tree.
- B. Planting a tree on public property or right-of-way

Sidewalk conflicts. Every effort must be made to protect the major root systems of mature trees during sidewalk construction, repair, and replacement. The City Arborist and the City Engineer will work with property owners to determine the best design for all sidewalk work, including curved sidewalks, narrow sidewalks (following ADA standards), and the use of sidewalk surfaces other than concrete.

220.8.2. Activities Requiring a Petition to the City Arborist

- A. Removal of a public tree
- B. Pruning of a public tree, including root pruning or disturbance

220.8.3. Prohibited activities

- A. Carving
- B. Breaking of limbs
- C. Poisoning
- D. Cutting or digging of roots
- E. Girdling, nailing
- F. Posting of signs
- G. Paving of tree belts
- H. Topping or otherwise damaging
- I. Injuring or otherwise putting public trees at risk, including injuring the major roots of public trees

Topping. Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical shall be exempted from the topping prohibition at the determination of the Department of Public Works.

Injuring or putting public trees at risk. No stones, cement, blacktop or other substances which will impede the passage of water and air to the roots of a tree in or on any street, park or public property shall be placed or maintained unless an open space of at least 12 square feet is left outside and around the trunk of the tree, except with the written permission of the Department of Public Works.

Excavation, including sidewalk construction, repair, and replacement within the street right-of-way for the purpose of compliance with this section shall not be undertaken without a permit from the City Engineer.

220.8.4. Department of Public Works responsibilities.

Costs of tree planting, maintenance, removal, and replacement. Unless stated explicitly otherwise, the city is responsible for the costs of planting, maintenance, removal, and replacement of public trees. Exceptions to this, where the costs will be the responsibility of the property owner, are noted below.

Pruning. It is the responsibility of the Department of Public Works, with input from the Tree Board, to prune any street tree for the following reasons:

- (1) Tree branches are obstructing light from a street lamp or obstructing the view of street intersections, traffic control devices or signs.
- (2) To provide a clear space of eight feet above the surface of a sidewalk.
- (3) To provide a clear space of 13 feet above the surface of a street.

Removal and replacement. It is the responsibility of the City Arborist, with input from the Tree Board, to determine if trees or shrubs on City-owned property are hazardous and to remove dead or

hazardous trees or shrubs from City-owned property. The City shall replace the tree or shrub within one year of removal. Property owners shall have the right to replace removed trees at their own cost and upon prior approval of the City Arborist.

Wherever it is necessary to remove a tree or shrub from a public right-of-way in connection with the paving of a sidewalk or the paving or widening of a street, the City or responsible agency or person shall replant such tree or shrub or replace it. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting on the adjoining property if the property owner agrees or contributing to the City "Tree Bank".

220.8.5. Emergencies

Pruning or removal is allowed without a permit for any public tree which is determined by utility or emergency response officials to create a public hazard so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services. A written record shall be completed within a reasonable time and kept on file with the City Arborist.

220.8.6. Permit and Application process

A person who wishes to initiate any activity affecting a public tree for which a permit is required shall make application to the City Arborist. Applications are available at the Public Works Department. There is no fee for filing an application.

220.8.7. Petitioning for Removal or Pruning

Removal. An abutting landowner seeking removal of a dead, diseased, healthy or live tree from a public right-of-way shall file a petition with the Department of Public Works requesting removal. All such petitions will require public notification. At least two weeks prior to each Tree Board meeting, the City Arborist shall cause a notice of tree removal petitions to be considered on that meeting's agenda to be placed on the City's website. Notice shall include size, species, and location of the trees. Residents may request automatic email notification of the Tree Board agendas. Neighbors within 200 feet of any tree being considered for removal shall be notified by letter at least two weeks before the Tree Board meeting.

Pruning. Any citizen may petition the City Arborist to prune a public tree, by communicating this need to the Department of Public Works. The City Arborist will review such requests and determine a course of action for the tree.

A property owner may perform, without petition, minor trimming (branches less than one inch in diameter) from the ground on street trees in front of his/her property where his/her intent is to maintain the tree and not to damage, mar or injure it. Tree pruning standards shall comply with ANSI A300, "Trees, Shrubs, and Other Woody Plant Maintenance – Standard Practices," unless more stringent requirements are indicated.

220.8.8. Approval Criteria for Removal

Petitions for removal of a healthy or live tree must demonstrate that removal will be of greater benefit to the inhabitants of the City than the existing tree or trees sought to be removed. Street tree plantings shall first be considered from the standpoint of the people using or passing along the streets and in terms of the broader community benefit. Of secondary consideration is the benefit, embellishment, or enhancement of the properties abutting the street?

The Tree Board and the City Arborist will approve petitions for removal of a public tree for the following reasons only:

- A. The public tree is damaging public property and such damage cannot be permanently repaired save for tree removal.
- B. The public tree is damaging abutting private property and such damage could result in liability to the City and such damage cannot be permanently repaired save for tree removal;

- C. The public tree interferes with a proposed necessary improvement to public or private property, and the City Arborist determines there is no alternative to removal. In cases where the tree interferes with an improvement to private property, the property owner will pay for removal and replacement;
- D. The public tree is dead, diseased, injured, in danger of falling, or presents a hazard to pedestrian or vehicular safety. In rating the level of hazard, the Tree Board and the City Arborist will apply the standards of the International Society of Arboriculture's hazard evaluation system¹;

Sidewalk conflicts. Trees will not be removed for sidewalk conflicts unless and until the City Arborist has determined that there is no alternative to removal. In

220.8.9. Appeals: Property owners seeking the removal of a tree may appeal a Tree Board denial to the Commissioner of Public Works. In cases where the Commissioner approves a petition for removal denied by the Tree Board and the City Arborist, removal and replacement will be at the expense of the petitioner.

220.8.10. Tree replacement

The removal of a public tree shall require its replacement by one or more trees, which shall be provided as follows.

- A. The replacement tree shall be of a species determined by the City Arborist
- B. A removed tree will be replaced with a tree or trees based on the size of the removed tree. One replacement tree will be planted for every eight inches in dbh of the removed tree. That is, one tree if dbh is less than eight inches, two trees if dbh is between eight and sixteen inches, etc.
- C. The replacement tree(s) shall be placed at locations determined by the City Arborist, and may include locations not abutting the petitioner's property. With owner's approval, a replacement tree can be planted near to, but outside, the city's right-of-way, particularly in cases where conflicts with utility wires or other infrastructure makes this desirable.

220.8.11. Tree protection: during construction, etc. - Not in current Chapter 220.

DEC: Protecting trees is always a challenge. This section is used to protect against insect or disease epidemics, during construction, and those of historic or sentimental value. Sometimes this section may create conflicts if any of the trees covered in this section pose a safety hazard. It helps to plan for this possibility.

Note: The existing ordinance should be expanded to include requirements for the protection of city-owned trees from paving and construction activities on public or private lands conducted by city employees, private companies or landowners. Protection measures should include fencing around trees to protect roots from damage or compaction during construction, and standards to assure that paving, the siting of buildings, and the installation of sidewalks, curbs and other infrastructure will minimize damage to tree trunks and roots.

- A. Persons conducting regular maintenance work on trees or shrubs in the tree protection zones may be granted general permits by the City of Saratoga Springs Department of Public Works to regulate their work on a yearly basis.
- B. All trees and shrubs in any tree protection zone within 15 feet of any excavation or construction of any building, structure or street work shall be guarded through the length of the project as follows:
 - (1) For trees or shrubs with a crown spread of eight feet or less, a good substantial fence, frame or box, which prevents work or storage inside such structure, not less than four feet high and eight feet square, shall surround the tree or shrub.

¹ http://www.isa-arbor.com/education/resources/educ_TreeHazardForm.pdf

- (2) For trees or shrubs with a crown spread of over eight feet, a good substantial fence, frame or box, which prevents work or storage inside such structure, not less than six feet high and placed at the drip-line of the tree or shrub, shall surround the tree or shrub.
- (3) All equipment, building materials, chemicals, dirt or other debris shall be kept outside the above barriers at all times and shall not be allowed to leach into barriers that are on grades.
- C. No person shall excavate any ditches, tunnels or trenches, or lay any drive, or substantively alter any grade within a radius of 10 feet of any tree in a tree protection zone without first obtaining the approval of the Department of Public Works.
- D. No person shall damage, cut, or carve any tree or shrub in a tree protection zone; attach any rope, wire, nails, advertising posters or other contrivances to any tree or shrub; allow any gas, liquid, or solid substance which is harmful to trees or shrubs to come in contact with any such tree or shrub; lean tools or other objects; or set fire or permit any fire to burn when such heat of the fire thereof may injure any portion of any such tree or shrub, without first obtaining a written permit from the Department of Public Works, said permit to be valid for only the time period indicated thereon.
- E. No person or City agency shall deposit, place, store or maintain upon any tree protection zone any stone, brick, sand, concrete or other materials which may impede the free passage of water, air or fertilizer to the roots of any tree or shrub growing thereon, except by written permission by the Commissioner of Public Works.
- F. No person shall drive, park, haul or store any automobile, truck, trailer, boat, motorcycle, snowmobile or other motorized vehicle within 25 feet of any tree or shrub in any tree protection zone, except while within the clearly delineated travel or parking zones of any roadway, alley or parking lot, without first obtaining permission from the Department of Public Works. This shall not be construed as to preclude parking on any gravel, concrete or bituminous driveway or entryway or operating a motor vehicle on any gravel-surfaced roadway within 25 feet of such a tree.

220.8.12 Protecting trees by prohibiting the paving of the tree belts

- A. Tree belts are not to be paved as off-street parking areas. Any person wishing to pave the tree belt for a driveway or a sidewalk must consult with the City Arborist and get written approval.

220.9 – Interference with city officials

Taken from current Chapter 220-7

It shall be unlawful for any person or persons or firm or corporation to prevent, delay or interfere or cause or authorize or procure any interference of delay with the Commissioner of Public Works or any of his employees or agents, or the City Arborist, while he is engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees, plants or shrubs in or upon any public highway or public place or upon any private ground as authorized in the previous section.

220.10 Trees on Private Property

No such section in Chapter 220.

DEC: Trees on private property may pose threats to public safety or other private property. This section provides the authority to inspect private trees and require action by the owner to eliminate any problems, if necessary.

- A. The Commissioner of Public Works shall also have the power to order and require property owners in the city to spray or otherwise treat any tree, shrub or plant located on private grounds or property which has become infected or infested by any parasite or insect pest when it shall be necessary, in his opinion, to do so to prevent the breeding or scattering of any parasite or animal pests and to prevent danger therefrom to trees or shrubs planted in the public streets or other public places. The Commissioner of Public Works shall also have the power to order property owners to trim, treat or remove any tree, plant or shrub located on private grounds or property whenever it shall be deemed wise to do so for the protection of other trees, plants or shrubs planted in the public streets or other public places. [from current Chap 220-6]
- B. Notice of an order of the Commissioner of Public Works, as provided for herein, shall be given by publication twice in the official newspaper of the city or by registered mail directed to the owner of property at his last known place of residence.
- C. Upon failure of the property owner to spray or otherwise treat any tree or shrub located on private ground which has become infected or infested by any parasite or insect pest, in compliance with an order of the Commissioner of Public Works promulgated in accordance with Subsection A of this section, the Department of Public Works shall enter upon the private ground and spray or otherwise treat or cause or order to be sprayed or otherwise treated any tree or shrub or plant infected or infested by any parasite or insect pest and shall assess the cost of doing said work against the property benefited.

220.11 Requirements of Professionals –

Not in current Chapter 220.

DEC: This section protects homeowners and the community forest from inadequately trained and unscrupulous people who claim to be professionals.

Note: The ordinance should be expanded to require that tree care companies use trained personnel who will abide by the tree ordinance and ANSI A300 standards, and have sufficient liability insurance.

- A. Arborist's license and bond.** It shall be unlawful for any person or firm to engage in the occupation of pruning, treating or removing street or park trees within the city without a license. All persons or firms so engaged shall abide by the tree ordinance, follow ANSI A300 standards, and have sufficient liability insurance.

No license shall be required of any public service company, including electric utilities and their agents and contractors, or city employees doing such work in the pursuit of their normal endeavors.

220.12 Enforcement, Penalties and Appeal

DEC: This section designates who is responsible for enforcement. Without penalties, enforcement of any ordinance is difficult. In addition, penalties need to be sufficient to deter violations. Depending on the length and complexity of the ordinance, penalties for violations may be listed in a single provision or in several different parts of the ordinance, and the penalties may be simple or complex. Appeals provide checks against the authority of the tree program manager.

Note: This section should designate who is responsible for enforcement. Penalties for violating the tree ordinance should be sufficient to deter violations, and should include requirements to remove trees illegally planted and to replace trees illegally removed. Without penalties, enforcement of any ordinance is difficult. In addition, penalties need to be sufficient to deter violations. A mechanism for appealing decisions by the permitting and enforcement authority should be added.

Taken from current Chapter 220-8. Should be clarified.

- A. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, and Art. I.* Any person, firm or association, partnership or corporation who himself or itself or by his agent or employee shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties set forth in Chapter 1, General Provisions, Article III, of this Code.

220.13 Severability

Not in current Chapter 220.

DEC: A statement protecting the validity of the rest of the ordinance if any part of it is found to be invalid by a court. For instance, "Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid."

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

220.14 Heritage Trees

Not in current Chapter 220.

See Appendix G [of the 2013 Urban Forest Master Plan] for discussion

220.15 Tree Restoration Fund

Not in current Chapter 220.

Tree restoration fund

- A. The Commissioner of Finance is hereby directed to establish a separate line item under the City's general fund which will be designated as the Tree Restoration Fund. All permit fees and other fees which are required pursuant to this chapter to be paid into said fund shall be delivered to the

Commissioner of Finance and segregated into said separate line item of the general fund. The money in the Tree Restoration Fund shall be used for the planting and maintaining of new trees by the City, as directed by the City Council in consultation with the Commission.

- B. For every and all trees approved by the Commission to be removed due to new construction at any given site, a fee of \$125 per tree shall be collected for the Tree Restoration Fund.

220.16 Other

DEC: Because circumstances can vary greatly between municipalities, other sections may need to be added. The ordinance should fit your individual community.

Appendix 1: Standards & Specifications

DEC: It is recommended that an appended "standards and specifications" document be created. This document lists up-to-date detailed tree planting and maintenance standards and specifications. Standards change as more knowledge is gained in the field. It is better to reference this document in the ordinance so the ordinance does not need to be amended as standards change. The International Society of Arboriculture is a professional organization that sets standards and specifications for planting and care. The American Association of Nurserymen's American Standard for Nursery Stock is also a good reference.