

CHAPTER 905 Street Trees

905.01 STREET TREE ORDINANCE.

This chapter shall be known and may be cited as the Street Tree Ordinance of the City of Orrville, Ohio. (Ord. 32-94. Passed 5-16-94.)

905.02 DEFINITIONS.

For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meaning herein given.

- (a) The word "shall" is always mandatory and not merely suggested.
- (b) The "City" means the City of Orrville, Ohio.
- (c) When not inconsistent with the context, words of the masculine gender shall include the feminine and words of the feminine gender shall include the masculine; words used in the plural number shall include the singular number and words used in the singular number shall include the plural number; words used in the future tense shall include the present and words in the present tense shall include the future.
- (d) The word "person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (e) The words "tree" or "street tree" include any tree or other plant in a public place or on private property as indicated by subsequent provisions of this chapter.
- (f) The words "public place" means any public street, public highway, public park, and any property owned or held by the City of Orrville within the boundaries of said City.
- (g) The words "arboriculture", "management" or "preservation" mean the treating, spraying, pruning and any other tree care work intended for the preservation of trees and the removal and prevention of tree pests, blights and diseases of any and all kinds. (Ord. 32-94. Passed 5-16-94.)

905.03 ESTABLISHMENT OF A STREET TREE COMMISSION.

An administrative committee called the "Street Tree Commission" is hereby established. This five member commission shall consist of four citizen members and the Safety-Service Director who shall serve as chairman and represent the City.

- (a) Term of Office. The four members of the Commission shall be appointed by the Mayor for a term as hereinafter provided or until their successors are appointed. The first two members shall be appointed for a term of one year and the second two members shall be appointed for a term of two years respectively.
- (b) Authority of the Street Tree Commission. The Commission shall have the authority to elect a secretary, establish sub-committees, and adopt rules and regulations as may be necessary for the purpose of carrying out the intent of this chapter. Such regulations for the planting, care, pruning and removal of trees shall not only be aimed at the elimination of economic waste by reason of damage to public property and/or the property of others in the interest of public health, safety and

welfare but also for the aesthetic appearance of streets, avenues, highways, parks and other public areas in the City. (Ord. 32-94. Passed 5-16-94.)

905.04 POWERS AND DUTIES OF THE SAFETY-SERVICE DIRECTOR.

(a) General Authority. The Safety-Service Director is hereby given complete authority, control and supervision of all trees which now or which may hereafter exist upon any public place in this City and over all trees which exist upon any private property in this City when such trees are in such a hazardous condition as to affect adversely the public health, safety and welfare.

(b) Specific Powers and Duties.

(1) Preservation and removal of trees on public property.

The Safety-Service Director shall have the right and duty to prune, preserve or remove any tree or other plant existing upon any public place when such tree, or part thereof, is so infected with any injury, fungus, insect or other plant disease or when such tree, or part thereof, constitutes an interference with travel. Said Director is further authorized to take such measures with regard to such trees or plants as he deems necessary to preserve the function and to preserve or enhance the beauty of such public places.

(2) Order to preserve or remove trees on private property.

The Safety-Service Director shall have the authority and it shall be his duty to order the pruning, preservation or removal of trees or plants upon private property when such trees constitute a public nuisance or when he shall find such action necessary to preserve the public health, safety and welfare.

(3) Dead, dangerous, diseased or public nuisance trees. Any dead, dangerous, diseased or public nuisance tree insofar as it affects the public health, comfort, safety and welfare is hereby declared a public nuisance dangerous to life and limb. For the purposes of this chapter, a dead tree is any tree with respect thereto the Safety-Service Director or his designated agent has determined that no part thereof is living; a dangerous tree is any tree, or part thereof, living or dead, which the said Safety-Service Director or his designated agent shall find is in such a condition and is so located as to constitute a danger to persons or property on public space in the vicinity of the said tree; a diseased tree shall be any tree on private property in such a condition of infection from a major pathogenic disease as to constitute, in the opinion of the said Safety-Service Director or his designated agent, a threat to the health of any other tree.

(4) Obstructions as a public nuisance. Any hedge, tree, shrub or other growth situated at the intersection of two or more streets, alleys or driveways in the City is hereby declared to be a public nuisance to the extent that such hedge, tree, shrub or other growth obstructs the view of

- the operator of any motor vehicle with regard to other vehicles or pedestrians approaching or crossing the said intersection.
- (5) Authority of Safety-Service Director to enter on private premises. The Safety-Service Director or any designated member of his staff shall have the authority to enter upon private premises at any and all reasonable times to examine any tree or shrub located upon or over such premises and to carry out the provisions of this chapter.
 - (6) Desirable and undesirable plant lists. The Safety-Service Director shall provide lists of trees undesirable for planting in public places in the City so as to ensure the public safety and welfare. These shall not be recommended for general planting and their use, if any, shall be restricted to special locations where, because of certain characteristics of adaptability or landscape effect, they can be used to advantage. The Safety-Service Director shall provide lists of trees desirable for planting in public spaces. Other species and varieties may be added or deleted as experience proves their value.
 - (7) Issuance of permits for trimming, removal and planting. The Safety-Service Director is given full authority and control in connection with the issuance of permits hereinafter provided for.
 - (8) Issuance of conditional permits. The Safety-Service Director shall have the authority to affix reasonable conditions to the grant of a permit issued in accordance with Section 905.07.
 - (9) Delegation of duties and authority. In the exercise of all or any of the powers herein granted, the Safety-Service Director shall have the authority to delegate all or part of his powers and duties with respect to supervision and control to his subordinates and/or assistants in the employ of the City, as he may from time to time determine. Such subordinates or assistants may be appointed by the Safety-Service Director as he deems expedient. He may at any time, remove them from their duties.
 - (10) Supervision. The Safety-Service Director or his appointed officer shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with terms of this chapter.
(Ord. 32-94. Passed 5-16-94.)

905.05 STREET TREE INVENTORY PLAN ADOPTED.

There is hereby adopted for the City of Orrville a Street Tree Inventory Plan Public Document showing species of all trees existing or to be planted in the public right-of-way of all streets within the City. Said Street Tree Inventory Plan is attached to ordinance 32-94 and is hereby incorporated by reference. No person shall hereafter plant, transplant or remove any public tree on or to any street of the City except on a location where it will be in conformation to the Street Tree Inventory Plan and the species and variety therein designated.
(Ord. 32-94. Passed 5-16-94.)

905.06 REQUIRED PERMIT AND CONDITIONS FOR GRANTING RELIEF.

(a) General Requirements. No tree shall be planted, pruned, preserved or removed in or upon any public place without a written permit from the Safety-Service Director. Such permit shall designate the type of tree and place where such tree is to be planted or removed. The Safety-Service Director shall have the authority to designate the species and variety of tree to be planted and the required spacing and required minimum planting size.

(b) Application Data.

- (1) The application for a permit herein required shall state the number, species and variety of trees to be pruned, preserved, removed or planted; the kind of treatment to be administered and such other information as the Safety-Service Director shall find reasonably necessary to make a fair determination of whether to issue a permit.
- (2) The Safety-Service Director shall review the qualifications of the applicant and the proposed method of workmanship or treatment to determine whether a permit will be issued.
- (3) Said permit shall be a prerequisite to the performance of any work connected with the planting, removing, spraying, pruning, bark tracing and root pruning or any other acts necessary for such work.
- (4) The applicant shall obtain and maintain in full force and effect covering the performance of the work covered by the permit issued under these Regulations comprehensive property damage and public liability insurance. Said policy of insurance to have a minimum limit of one hundred thousand dollars (\$100,000) and three hundred thousand dollars (\$300,000) for injury to any person or persons and fifty thousand dollars (\$50,000) for damages to any property. A certificate of said insurance policy with a thirty day cancellation notification shall be placed on file with the Safety-Service Director. Additionally, they must provide evidence of workers' compensation insurance for all employees.
- (5) The applicant shall perform the work described above in a professional manner.

(c) Public Utility Companies. Public utility companies shall notify the Safety-Service Director prior to pruning any public tree 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 Street Tree Commission may file a formal complaint with the Public Utilities Commission.

(d) Exemptions.

- (1) No permit shall be required to cultivate or water public trees or shrubs. The Safety-Service Director may authorize any tree expert company or other professional to do the work or act described in Section 905.07(a) without a written permit for each tree whenever he

- determines that such work or act will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this chapter.
- (2) In the case of officially declared emergencies, such as windstorms, ice storms, or other disasters, the requirements shall be waived so that the requirements of this chapter would in no way hinder public and/or private work to restore order in the City.
(Ord. 32-94. Passed 5-16-94.)

905.07 GENERAL TREE REGULATIONS.

(a) Injury to Trees Prohibited. No person shall, without the written permission from the Safety-Service Director in the case of a public tree, do or cause to be done to others, any of the following acts:

- (1) Secure, fasten or run any rope, wire, sign or other device or material to, around, or through a tree.
- (2) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree.
- (3) Permit any toxic chemical, gas, smoke, brine, oil or other injurious substance to seep, drain or to be emptied upon or about any tree.
- (4) Excavate any ditch or trench in such a manner as to adversely affect the health of a tree or damage the root system.
- (5) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby trees which may be injured or defaced by or where said injury or defacement may arise out of, in connection with or by reason of such operation. Quality of said guard shall be determined by the Safety-Service Director.
- (6) Knowingly permit any uninsulated electric transmission or distribution wires to come in prolonged contact with any public tree.
- (7) Remove any guard, stake, or other device or material intended for the protection of any public tree or close or obstruct any open space about the base of a public tree designed to permit access of air, water and fertilizer.

(b) Moving Trees. All moving of trees upon any public place in this City made necessary by the moving, construction or razing of a building or structure by any other private enterprise shall be done under the supervision of the Safety-Service Director at the expense of the applicant. Such applicant, as one of the conditions of obtaining such permission, shall deposit with the City such sum in cash as the Safety-Service Director may determine and specify to cover all the costs of moving and replacement thereof; provided, however, that in lieu of such cash deposit the Safety-Service Director may, at his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the costs of such moving and replacing. (Ord. 32-94. Passed 5-16-94.)

905.08 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.

When the Safety-Service Director shall find it necessary to order the pruning, preservation or removal of trees or plants upon private property

pursuant to the conditions set forth in Section 905.04(b)(2) herein, he shall serve a written order to correct the dangerous condition upon the owner, occupant or other person responsible for its existence.

- (a) Method of Service. The order herein shall be served in one of the following ways:
 - (1) By making personal delivery of the order to the person responsible.
 - (2) By leaving the order with some person of suitable age and discretion upon the premises.
 - (3) By affixing a copy of the order to the door at the entrance of the premises in violation.
 - (4) By mailing a copy of the order to the last known address of the owner of the premises by First Class mail.
 - (5) By publishing a copy of the order in the local paper once a week for three consecutive weeks.
- (b) Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to person or public property, the Safety-Service Director shall have the authority to require compliance immediately upon service of the order.
- (c) Appeal from Order. A person to whom an order hereunder is directed shall have the right, within twenty-four hours of service of such order, to appeal to the Safety-Service Director, who shall review such order within five working days and file a decision thereon. If the person wishes to appeal that decision, an appeal in writing shall be filed with the Shade Tree Commission within five working days beginning the day the individual is notified of the decision of the Safety-Service Director. The Street Tree Commission shall issue their decision within thirty days of the date they received the appeal. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. A person to whom such order is directed must comply with said order within twenty working days after an appeal shall have been determined. When a person to whom an order is directed fails to comply within the specified time period, the Safety-Service Director may take such steps as he finds necessary to remedy the condition. (Ord. 32-94. Passed 5-16-94.)

905.09 COSTS OF REMEDY.

After the work is done by or under the direction of the City, the City shall give notice, by regular mail, to the owner of such lot or parcel of land, at his last known address as found on the most recent tax duplicate, to pay all service charges and expenses, including labor costs and fees for service of notice and return, plus twenty percent of said sums for administrative costs. In the event the same is not paid within thirty days after the mailing of notice, then such amount shall be certified to the County Auditor for collection, the same as other taxes and assessments are collected, and returned to the General Fund. The levying of such charges shall not affect the liability of the person to whom the order is directed from the penalties provided in Section 905.11. (Ord. 32-94. Passed 5-16-94.)

905.10 CONSTITUTIONALITY.

In any of the provisions of this chapter shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provisions of this chapter. The Council of the City of Orrville hereby declares that they would have adopted each and every portion of this chapter separately regardless of the possible invalidity of any part thereof. (Ord. 32-94. Passed 5-16-94.)

905.99 PENALTY.

Any person violating any of the provisions of this chapter shall be deemed and held guilty of a misdemeanor and upon conviction, shall be fined in any sum not to exceed one hundred dollars (\$100.00) for each such offense and each day during which the violation shall continue, shall be held and deemed to be a separate offense. (Ord. 32-94. Passed 5-16-94.)

STREET TREE ORDINANCE
City of Orrville, Ohio



TREE CITY USA®

207 North Main Street
Orrville, OH 44667
Phone: 330-684-5000 FAX: 330-684-5023
www.orrville.com