

ORDINANCE NO. 9-2003

AN ORDINANCE AMENDING CHAPTER 907 OF THE CODIFIED ORDINANCE OF THE CITY OF WASHINGTON TREES AND TREE COMMITTEE

WHEREAS, the Council of the City of Washington desires to preserve and maintain the trees within the public right of way and public parks of the City of Washington Court House; and

WHEREAS, the establishment of the Washington Tree Committee shall aid in such preservation and maintenance of the trees of the City of Washington Court House:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WASHINGTON, FAYETTE COUNTY, OHIO:

SECTION I.

That Chapter 907 of the Codified Ordinances of the City of Washington reads as follows:

907.01 DEFINITIONS.

Street Trees: are herein defined as trees, shrubs, bushes and all other woody vegetation on easement occupied by public right of way within the City.

Park Trees: are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City or to which the public has free access as a park.

Critical Root Zone: is herein defined as the circular area centered around the tree trunk and having a radius equal to the distance from the trunk to the outer branch tips or having a radius equal to fifteen (15) times the diameter of the tree at chest height, whichever is greater.

Construction Work: is herein defined as any activity that disturbs, eliminates or compacts the soil including but not limited to trenching, grading or any sealing of the surface of the soil to air and water.

907.02 TREE COMMITTEE.

There is hereby created and established Washington Tree Committee for the City of Washington, Ohio, which shall consist of five members,

citizens and residents of the City of Washington, who shall be appointed by the Chief City Administrator with approval of the City Council.

907.03           TERM OF OFFICE

The term of office of the four persons to be appointed by the City Manager shall be four (4) years. The fifth member of the Tree Committee shall be a member of the City Council appointed by the Chairman of Council. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

907.04           COMPENSATION

Members of the Tree Committee shall serve without compensation.

907.05           DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Tree Committee to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along street right of ways and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive City tree plan for the City of Washington, State of Ohio.

The Committee, when requested by the Washington City Council, shall consider, investigate, make findings, reports and recommendations upon any special matter of question coming within the scope of its work.

907.06           OPERATION

The Tree Committee shall choose its own officers, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

907.07           STREET TREE SPECIES TO BE PLANTED

**A list of the species of trees approved for planting as Street Trees in the City of Washington shall be kept on file at City Administration Office and may be obtained from the Building**

**Department.** No species other than those **approved on** this list may be planted as Street Trees without written permission **from the chairman of the Tree Committee or the City Urban Forester.** **The approved Street Tree list shall divide Street Tree species into four size classifications:**

**Small/Narrow, Small, Medium and Large.** Trees planted must be at least 3/4" in diameter, one foot above soil line and the trunk must be single.

Prohibited Trees: Poplar (all species), Willow, Catalpa, Black Walnut, Mulberry, Box Elder, Nut Trees **except those listed on the Approved Tree List,** Silver Maple, Siberian Elm, Tree of Heaven, Common Horsechestnut, all Evergreens, **'Bradford' Callery Pear and female Ginkgo.**

907.08 SPACING

The spacing of Street Trees will be in accordance with the ~~three~~ **four** species size classes listed in Section 7 of this ordinance, and no trees may be planted closed together than the following: **Small/Narrow Trees – ten feet (10');** Small Trees – twenty feet (20'); Medium Trees – **thirty feet (30');** Large Trees – **forty feet (40');** (except in special plantings approved by the Tree Committee).

907.09 DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the **four** species size classes listed in Section 7 of this ordinance and no trees may be planted closer to any curb or sidewalk than the following: Small/Narrow Trees - **ten inches (10");** Small Trees - **twenty inches (20");** Medium Trees - **thirty inches (30");** Large Trees – forty inches (40"). **No planting is permitted if space between the curb and sidewalk is less than twenty inches (20") without approval of the Chairman of the Tree Committee.**

907.10 DISTANCE FROM STREET CORNERS AND **FIRE HYDRANTS**

No Street Tree shall be planted closer than **thirty-five (35')** of any street corner, measured from the point of **nearest intersecting curbs or curblines.** No Street Tree shall be planted closer than ten feet (10') of any **fire hydrant.**

907.11 UTILITIES

Utility companies shall comply with all sections of this ordinance. No Street Tree other than those species listed in Small/Narrow and Small Trees may be planted under or within ten (10) lateral feet of any overhead bare conductor medium voltage power lines, or within ten (10') lateral feet of any underground water line, gas line, transmission line or other utility.

907.12

#### PUBLIC SAFETY

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all street and alley right of ways and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Tree Committee may recommend the removal of any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected by any injurious fungus, insect or pest. The property owner shall be responsible for the removal of all dead, diseased and dangerous trees, or broken or decaying limbs which may constitute a menace to the safety of the public on trees privately planted. The City shall remedy such unsafe conditions in trees purchased with City funds, public grants or trees planted by the City. Trees within the City of Washington shall be pruned so that branches do not obstruct the light of any street lamp. Trees shall be pruned to maintain eight feet (8') of clear space above the surface of sidewalks and fifteen feet (15') above the surface of any street. All spraying must meet all specifications and regulations for the spray materials.

907.13

#### TREE TOPPING

It shall be unlawful for any person, firm or City Department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the trees crown to such a degree so as to remove the normal canopy and disfigure the tree; or the removal of the central leader of the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Chairman of the Tree Committee.

907.14

#### TREE WORK PERMIT

No tree located within any street or alley right of way or in any other public area shall be pruned, removed or in any way disturbed without first obtaining a Tree Work Permit from the City Manager or his

designee. The permit must be approved by the City Urban Forester or the Chairman of the Tree Committee for each tree to be worked on. The Tree Work Permit must describe in detail the work to be performed. Utility companies shall be exempt from Section 907.14 to maintain the safety of the public during emergency situations only. Any tree work done during emergency situations must be reported within two (2) business days to the City of Washington Service Director or his designee or to the City of Washington City Forester. All tree pruning shall be performed in accordance with current ANSI Standard Practices for Tree Care Operations.

907.15 SERVICE OF WRITTEN NOTICE AND ACTION BY CITY MANAGER

The legislative authority shall cause a written notice to be served in the manner provided by the O.R.C. 731.52 or any other method determined by the legislative authority upon the owner, lessee, agent of the owner or tenant of such property, notifying such persons to prune any tree or shrub or to remove any dead, diseased or dangerous trees, or broken or decayed limbs overhanging any street or right of way within the City. The pruning or the removal of dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the public safety, shall be done by said owners at their own expense within thirty (30) days of serviced notice. Upon failure of such persons to comply with such notice, the legislative authority shall direct the pruning of any tree or shrub or the removal of any dead, diseased or dangerous tree, or broken, or decayed limbs which constitute a menace to the safety of the public and may employ the necessary labor for such purpose and expend public funds for that purpose.

907.16 WRITTEN RETURN TO AUDITOR.

The legislative authority may make a written return to the County Auditor of its action under Sections 907.15 with a statement of the charges for services performed by the City, including the amount for labor and the fees, if any, of officers making service and return of notice, together with a proper description of the premises so that such charges may be entered upon the tax duplicate and be lien upon such property from and after the date of the entry and be collected as other taxes and returned to the City with the General Fund.

907.17 REMOVAL OF STUMPS

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 average grade of the ground.

907.18 SAFEGUARDING TREES.

Every effort should be made during construction work that to avoid disturbing the soil within the critical root zone of Street and Park trees. is prohibited. Tunneling under or around the critical root zone of Street and Park trees is a preferred type of construction work. Guards or fences must be erected during any construction work adjacent to Street and Park trees to protect all areas within the critical root zone of the Street and Park trees. Wire, nails, signs or any other contrivance cannot be attached to trees. Exceptions to this ordinance may be granted at the determination of the City of Washington Urban Forester or the Chairman of the Tree Committee. If the soil must be disturbed within ten (10') feet of a city or park tree, the contractor must notify the City of Washington Service Director or his designee or the City of Washington Urban Forester.

907.18 ABUSE OR MUTILATION OF TREES.

No person shall abuse or intentionally cause any Street or Park Tree to be mutilated, topped or injured.

907.19 INTERFERENCE WITH THE WASHINGTON TREE COMMITTEE.

It shall be unlawful for any person to prevent, delay or interfere with the Tree Committee, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any Street or Park Trees, or trees on private grounds, as authorized in the ordinance.

907.21 ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person or firm 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 \$10.00 annually in advance, payable January 1 for the year in which the license is issued. No license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. **No license will be required of private citizens to do tree work on their own property. Regardless of the need for a license, all non-emergency tree work must be approved with a Tree Work Permit.** Before any license shall be issued, each applicant shall:

1. First file evidence of possession of liability insurance in the minimum

amounts of \$300,000 for bodily injury and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

2. Agree to follow all parts of this ordinance.
3. Agree to submit a Tree Work Permit for each tree to be worked on.
4. Agree to notify the Washington Police Department of all tree work to be performed.

907.22 REVIEW BY CHIEF ADMINISTRATIVE OFFICER.

The CHIEF ADMINISTRATIVE OFFICER shall have the right to review the conduct, acts and decisions of the Tree Committee. Any person may appeal from any ruling or order of the Tree Committee to the Washington City CHIEF ADMINISTRATIVE OFFICER who may hear the matter and make final decision.

907.23 PENALTY.

Violation of the provision of this ordinance or failure to comply with any of its requirements shall constitute a minor misdemeanor, punishable upon conviction by \$100 fine plus the value of damage and all costs and expenses involved in the case. The value of damages shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens, as published by the International Society of Arboricultural. Each day such violation continues, after receipt of violation notice, shall be considered a separate offense. Nothing herein contained shall prevent the City from such other lawful action as is necessary to prevent or remedy any violations.

SECTION II.

All the provisions of this Ordinance shall be deemed separable, and the invalidity of any of the provisions hereof shall in no way affect the validity of the other provisions.

SECTION III.

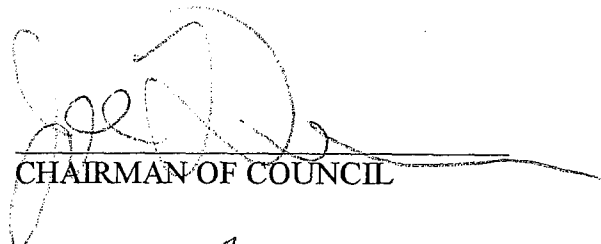
That all other ordinances or resolutions in conflict herein are expressly repealed.

SECTION IV.

That this Ordinance shall take effect and be in full force from and after the earliest period allowed by law.

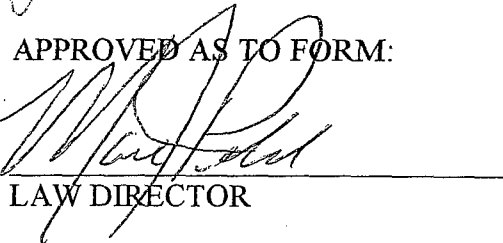
\*NEW LANGUAGE APPEARS IN BOLD AND UNDERLINED. ALL PRIOR LANGUAGE HAS BEEN DELETED FROM NEW ORDINANCE. ONLY THE LANGUAGE OF THE NEW ORDINANCE APPEARS.

PASSED: March 24, 2003

  
CHAIRMAN OF COUNCIL

ATTEST:

Debra M. Keaton  
CLERK OF COUNCIL

APPROVED AS TO FORM:  
  
LAW DIRECTOR