

TREE ORDINANCE

ORDINANCE 11-97

An Ordinance of the Village of Rockford establishing the urban forestry program, and is a companion ordinance to Ordinance 10-97.

SECTION 1: Definitions

- A. "Person" means any person, firm partnership, association, corporation, company or organization of any kind.
- B. "Street or Highway" means the entire width of every public way, easement of right of way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffics, and shall include alleys.
- C. "Public Places" shall include all other grounds owned by the Village of Rockford.
- D. "Property Line" means the outer edge of a street or highway.
- E. "Treelawn" means that part of a street or highway, lying between the sidewalk and that portion of the street or highway usually used for vehicular traffic.

Comment: This definition includes curb strips, but also any other unpaved street right of way, whether or not a sidewalk is present, and regardless of a sidewalk's location.
- F. "Public Trees" shall include all shade and ornamental trees now or hereafter growing on any street or any public places.
- G. "Principal Thoroughfare" means any street upon which trucks are not prohibited.
- H. "Property Owner" means the person owning such property as shown by the County Auditor's Plat of the Village of Rockford, Mercer County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
- I. "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base; capable of being pruned to provide at least six (6) feet of clear branchless trunk below the crown within five (5) years of planting.
- J. "Shrub" means a low growing woody plant with one or several perennial main stems producing branches, shoots, or multiple stems from or near the base of the

plant and incapable of being pruned to provide at least six (6) feet of clear branchless trunk within five (5) years of planting.

K. "Evergreen" means any tree that retains its green living foliage the entire year.

Section 2: DUTY OF PROPERTY OWNER TO PRUNE PRIVATELY OWNED TREES

- A. It shall be the duty of any person or persons owning or occupying real estate bordering on any street upon which property there may be trees or shrubs, to prune, or cause to be pruned, such trees or shrubs 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, obstruct view of any street or alley intersection, or generally obstruct vehicular traffic
- B. Should any person or persons owning or occupying real estate property bordering on any street fail to prune trees or shrubs as herein provided above, the Village Administrator or the Tree Commission shall order such person or persons within fifteen (15) days after receipt of written notice, to so prune such trees or shrubs.

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. Should the certified letter be returned unclaimed, the Village shall send a letter regular mail to the owner's last known address and the owner shall have fifteen (15) days from the date of mailing 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 Village, its employees or agents to enter onto the property to prune such trees or shrubs, and to bill the property owner for double the actual cost of the work, or it necessary to assess the property owner for same as provided by law in the case of special assessments.

Comment: Suggested change to double cost damages should provide a deterrent to owners who through inaction, try to force the City to do private tree work.

SECTION 3: TREE COMMISSION MAY REMOVE

- A. The Tree Commission may remove or cause or order to be removed any trees or part thereof which by reason of its nature is injurious to existing sewers, electric power lines, gas lines, water lines, or other public improvements.

The Village Administrator shall examine or cause to be examined every tree within 100 feet of any sanitary or storm sewer, drain, manhole or other public utility line above or below the surface of the ground, which has been reported as dangerous to or causing interference with said sewer, drain, manhole, or public utility line, he shall give to the tree owner or the person having charge or control of said tree, including an executor and administrator of a deceased owner, written notice of his findings and an order that such person remove said tree or injurious part thereof within 45 days. Service of such notice shall be as prescribed in Section 2, or Section 3.

- B. It is unlawful to retain or permit to stand, any tree(s) or shrub(s) designated dead, diseased or deemed a menace by condition to the health, safety and welfare of the people of Rockford. The Village Administrator or Tree Commission shall order removal of such tree or shrub identified as dead, diseased or a menace, by a letter sent certified mail, return receipt requested. A period of no more than fifteen (15) days from receipt of certified letter shall be permitted to affect such removal. Should the certified letter be returned unclaimed, the Village shall send a letter via regular mail to the owner's last known address, and the owner shall have fifteen (15) days from the date of mailing to affect such removal. Should the property owner fail to comply within the specified time, it shall be lawful for the Village, its employees, or agents to enter onto the property to remove such trees or shrubs, and to bill the property owner for double the actual cost of the work, or if necessary to assess same to the property owner as provided by law in the case of special assessments.

Comment: Whether on public or private property, public hazards must be abated. Sometimes people are uncooperative. These provisions provide a method to follow due process without unreasonable delays in correcting serious problems if a public hazard exists on private property.

SECTION 4: REMOVAL, REPLANTING AND REPLACEMENT IN PUBLIC PLACES

- A. Wherever it is necessary to remove a tree(s) or shrub(s) from a treelawn or other public places, as defined, in connection with the paving of a sidewalk, or the paving or widening of a portion of a street, alley, or highway used for vehicular traffic, or any other reason, the Village shall remove and replant such tree or shrubs, or replace them; or plant in an attractive manner on the adjoining property an equivalent number, size and species of trees or shrubs to the satisfaction of the Tree Commission.

Comment: The Village removes and replaces trees that are dying, unsafe, or in the way of public improvements. Peoples doing private construction work must do likewise. The Village is flexible regarding the exact replacement of species and locations. The mandatory replacement requirement will ensure that future

Village residents will enjoy the same tree lined streets and beautiful parks that current residents experience.

- B. No person or property owner shall remove a tree(s) or shrub (s) from a treelawn, or other public place, as defined, for the purpose of construction, or for any other reason without first filing an application and obtaining approval from the Village Administrator or the Tree Commission and without replacing the removed tree(s) or shrub(s). Such replacement shall meet the standards of size, species, and placement as provided for in an approval issued by the Village Administrator or Tree Commission. The person or property owner shall bear the cost of the removal and replacement of all trees or shrubs removed. Failure to plant replacements per Village standards shall result in replacement performed by the Village, its employees, or agents, and the Village shall bill the property owner or person responsible for replacement double the actual cost of the work, or if necessary shall assess the property owner for same through special assessment as provided by law.

Comment: All due process procedures, including methods used to determine actual cost of work for replacing trees or shrubs, should be specified in detail to prevent delays and confusion, and to protect the community and its residents.

SECTION 5: TREES PROHIBITED ON PUBLIC PROPERTY

No trees shall be planted on public property without specific consent of the Tree Commission.

Whenever any tree or shrub shall be planted or set out in conflict with the provisions of the Ordinance, the Village Administrator or the Tree Commission may cause removal of the same without obligating the Village to replace the illegally planted tree (s).

SECTION 6: ABUSE OR MUTILATION OF PUBLIC TREES

- A. Unless specifically authorized by the Village Administrator or the Tree Commission, no person shall intentionally damage, cut , carve, transplant, or remove any tree or shrub, attach any rope, wire, nails, advertising posters, or other contrivance to any tree or shrub, allow any gaseous liquid or solid substance which is harmful to such trees or shrubs to come in contact with them; or set fire or permit fire to burn when such fire or the heat thereof will injure any portion of any tree or shrub.
- B. No person shall excavate any ditches, tunnels, trenches, or alley and drive within a radius of ten (10) feet from any public tree or shrub without first obtaining written approval from the Village Administrator or Tree Commission.

SECTION 7: PLACING MATERIALS ON PUBLIC PROPERTY

No person shall deposit, place, store or maintain upon any public place of the Village, 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 growing therein, except by written consent of the Village Administrator or Tree Commission

SECTION 8: PLANTING AND MAINTENANCE OF TREE LAWNS

No person shall plant, prune, brace, cable, spray or otherwise perform work on a tree in a tree lawn or other public place without first obtaining the prior approval of the Village Administrator or Tree Commission. Normal water and fertilization are expected and may be done without prior approval.

SECTION 9: DISTANCE FROM STREET CORNER AND FIREPLUGS

No street tree shall be planted closer than 35 feet off any street corner, measured from the point of nearest intersection, curbs or curb line. No street tree shall be planted closer than 10 feet from any fire hydrant.

SECTION 10: UTILITIES

No street tree other than those species referred to as small trees in the list of approved trees, may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, distribution line, or other utility.

SECTION 11: TOPPING

It shall be unlawful as a normal practice for any person, firm, or village department to top any street tree, park trees, or other tree on public property. Topping is defined as the served cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure 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 Tree Commission.

SECTION 12: REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground to facilitate landscaping.

SECTION 13: ADOPTION OF RULES

The Tree Commission, with the approval of Village Council, may adopt rules consistent with this Chapter which provides detailed guidelines for administration of this Chapter.

SECTION 14: PENALTY

It shall be unlawful for any person to present delay or interfere with the Village Tree Commission, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any street trees, or trees on private grounds, as authorized in this ordinance. Any person, firms, or corporation violating or failing to comply with any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than \$25.00 nor more than \$1000.00 per violation or be imprisoned for a term not exceeding sixty (6) days, or both **in addition to any required restitution for any damages incurred by the Village of Rockford or any special assessments levied as provided for herein.**

SECTION 15

This Ordinance shall take effect and be in full force at the earliest period allowed by law.

Marlene Roebuck – President of Council

Jeff Pontsler – Mayor

November 4, 1997

RELATIVE TO ESTABLISHMENT
OF A VILLAGE
TREE COMMISSION
ORDINANCE #10-97

An Ordinance of the Village of Rockford
Establishing a village tree commission, and
repealing Ordinance #13-86

SECTION I. ESTABLISHMENT

There is hereby created and established the Village Tree Commission of the Village of Rockford, Ohio, County of Mercer, State of Ohio.

SECTION II. PURPOSES OF OBJECTIVES

The primary purposes and objectives of the Village Tree Commission shall include the following:

- A. To study the problems and determine the needs of the Village of Rockford, Ohio relative to a municipal tree care and tree planting program, and to make such recommendations from time to time to the Village Council as to desirable legislation concerning the tree program and activities of the municipality.
- B. To establish the recommended species and varieties of trees to be planted in the tree lawns or parks.
- C. To disseminate news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property.
- D. To hold regular and special meetings at which the subject of trees insofar as it relates to the municipality may be discussed by the members of the Commission, officers and personnel of the municipality and its several divisions, and all others interested in the tree program.
- E. The Commission, when requested by Village Council, or the Village Administrator, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
- F. To implement an Arbor Day observance on an annual basis.

SECTION III. MEMBERSHIP AND TERMS

- A. The Commission shall consist of five (5) members. In addition, the Commission shall have the right to call in consultants as they see fit.
- B. All members of the Commission shall be appointed by the Mayor, subject to the approval of the Village Council. The Mayor or his designee shall be an ex-officio member of the Commission.
- C. The Chairman shall preside over all meetings of the Commission and act as parliamentarian. The Vice Chairman shall assume the duties of the Chairman in his or her absence.
- D. Appointments to the Commission shall be for three (3) year terms, provided that the term of two (2) of the members appointed to the first Commission shall be for one (1) year and (2) years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of said term.
- E. Members of the Commission shall serve without compensation.

SECTION IV: MEETINGS AND PROCEDURES

The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A simple majority of the members shall be a quorum for the transaction of business. All plans, findings, advice, reports, and recommendations made by the Commission shall be in writing and designate by name those members of the Commission approving or concurring therein, and members who do not so approve or concur therein shall have the right, as a part of such report, to state their reasons for refusing to approve or concur.

SECTION V:

This ordinance shall take effect and be in full force at the earliest period allowed by law.

Marlene Roebuck – President of Council

Jeff Pontsler – Mayor

November 4, 1997

