

ORDINANCE NO. 87-1 AC CMS

AN ORDINANCE REPEALING SECTIONS 907.01, 907.02, 907.03, 907.04, 907.05, 907.06, 907.07, 907.08, 907.09, 907.10, 907.11, 907.12 AND 907.99 OF THE CODIFIED ORDINANCES OF THE CITY OF OBERLIN, OHIO, DEALING WITH TREE PLANTING, CARE AND REMOVAL, AND ENACTING NEW SECTIONS 907.01, 907.02, 907.03, 907.04, 907.05, 907.06, 907.07, 907.08, 907.09, 907.10, 907.11, 907.12, 907.13, 907.14, 907.15, 907.16, 907.17, 907.18, 907.19, 907.20, 907.21 AND 907.99 CONCERNING THE SAME SUBJECT MATTER

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That Sections 907.01, 907.02, 907.03, 907.04, 907.05, 907.06, 907.07, 907.08, 907.09, 907.10, 907.11, 907.12 and 907.99 of the Codified Ordinances of the City of Oberlin, Ohio, regulating tree planting, care and removal, at certain locations within the City, are hereby repealed.

SECTION 2. That there are hereby enacted new Sections 907.01, 907.02, 907.03, 907.04, 907.05, 907.06, 907.07, 907.08, 907.09, 907.10, 907.11, 907.12, 907.13, 907.14, 907.15, 907.16, 907.17, 907.18, 907.19, 907.20, 907.21 and 907.99 of the Codified Ordinances of the City of Oberlin, Ohio, said Sections being fully set forth in the attachment hereto and incorporated herein by reference.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading- January 5, 1987
2nd Reading- January 20, 1987
3rd Reading- February 2, 1987

ATTEST:


Clerk of Council


Chairman of Council

POSTED: February 4, 1987

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ATTACHMENT

CHAPTER 907

TREE PLANTING, CARE AND REMOVAL

- 907.01 DEFINITIONS
- 907.02 POWERS AND DUTIES OF THE GROUNDS DEPARTMENT DIRECTOR
- 907.03 INTERFERENCE WITH EMPLOYEES
- 907.04 PERMITS REQUIRED
- 907.05 APPLICATION FOR PERMIT
- 907.06 PRUNING STANDARDS FOR CURBLAWS AND MUNICIPAL PROPERTY
- 907.07 BRACING, CABLING AND GUYING STANDARDS
- 907.08 ABUSE OR MUTILIZATION OF PUBLIC TREES
- 907.09 PROHIBITED SPECIES
- 907.10 PROTECTION OF FLORA DURING CONSTRUCTION
- 907.11 PLACING OR STORING MATERIAL ON CURBLAWS OR PUBLIC PROPERTY
- 907.12 ELECTRICAL DEVICES NEAR FLORA
- 907.13 REMOVAL OF GUARDS OR SHIELD DEVICES
- 907.14 STREET TREE PLANTING PLAN
- 907.15 TREE PLANTING TRUST FUND
- 907.16 REIMBURSEMENT FOR CURBLAWN TREE PLANTING
- 907.17 TREE PLANTING IN NEW SUBDIVISIONS AND PLANNED RESIDENTIAL DEVELOPMENTS (PRD)
- 907.18 HEIGHT OF LOWER LIMB ON ALL CURBLAWN TREES
- 907.19 NOTIFICATION OF VIOLATION; APPEAL PROCEDURE
- 907.20 PROCEDURAL AND LABOR CHARGES
- 907.21 LIEN
- 907.99 PENALTY

907.01 DEFINITIONS

The following words and phrases, when used in this chapter, shall have the meaning respectively ascribed to them in this section.

- (a) "Curblawn or Treelawn" shall mean 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.
- (b) "Damage" shall mean any act which would change the natural shape which is typical to the species.
- (c) "D.B.H." means the "Diameter at Breast Height", a standard forestry measurement of flora taken at four (4) feet above ground line. The D.B.H. for multi-stemmed plant shall be considered a combination of all the trunk diameters.
- (d) "Director" shall mean the Director of the Department of Parks and Recreation, Grounds Department, City Forestry Department, or other department which is authorized by the City Manager to administer this Chapter.
- (e) "Flora" shall mean all trees, shrubbery, and other plants which grow to a height greater than twelve (12) inches, but expressly excluding broadleaf weeds.
- (f) "Municipal Property" shall mean all public streets, curb lawns, alley-ways, parkways, municipal parking lots, parks, cemeteries, reservoirs, or other property under the control or jurisdiction of the City of

Oberlin.

- (g) "National Arborist Association Standards" shall mean the set of Standards prepared by the National Arborist Society, Copyright 1983.
- (h) "Occupant" means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owners, person, or entities who are from time to time in possession of or exercising dominion and control over any house or other structure located on private property.
- (i) "Owner" shall mean any one (1) or more of the following:
 - 1. The owner or owners of a fee simple parcel of real estate, including the life tenant or tenants;
 - 2. The record owner or owners as reflected by the most current records in the office of the Lorain County Auditor, Tax Map Department, in which the real estate is located; or
 - 3. The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (j) "Persons" is any individual, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons, or entities.

- (k) "Precut or Precutting". The removal of the branch at least six inches beyond the finished cut to prevent splitting into parent stem or branches.
- (l) "Private Property" shall mean all real estate within Lorain County, except real estate that is owned, leased, controlled, or occupied by the Federal government, the State of Ohio, Lorain County, the incorporated City of Oberlin, or any department or agencies thereof.
- (m) "Prune, pruning, trim, or trimming" shall mean the removal of dead, dying, diseased, live interfering, objectionable, and weak branches in a scientific manner.
- (n) "Tree". When used by itself, the word "tree" shall mean any woody, perennial plant and includes those having a single main trunk or stem which grows to a minimum height of over fifteen (15) feet.

907.02 POWERS and DUTIES of the GROUNDS DEPARTMENT

The Grounds Department Director (hereafter referred to as the "Director") shall administer the rules and regulations governing the planting, maintenance, pruning, and removal of trees within the curblawns and municipal property under the supervision of the City Manager, and shall be directly responsible to the City Manager.

The Director shall encourage and foster the planting of flora for the beautification of the City of Oberlin.

The Director shall disseminate information to the public

concerning proper selection and care of all flora.

The Director shall enforce the use of the National Arborist Association's Standards for Pruning of Shade Trees, and Guying of Shade Trees, as published by the National Arborist Association, Copyright 1983 or any later edition (hereafter referred to as the National Arborist Association Standards) in the pruning, protecting, and maintaining of all flora within the curblawns and municipal property of the City of Oberlin. Copies of these Arboricultural Standards are on file with and available through the Grounds Director.

The Director shall have the authority to revise or amend the official Street Tree Planting Plan for the City as originally adopted on March 15, 1971. Revisions or amendments shall be made by the Director at any time circumstances make alterations advisable. All alterations shall have the approval of the Planning Commission and the City Manager.

The Director shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.

The Director shall have the authority and generic duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.

The Director shall be responsible for preserving the aesthetics of the curblawns and municipally owned property.

907.03 INTERFERENCE WITH EMPLOYEES

No person shall prevent, delay, hinder, or interfere with the Director or any of the Director's agents while engaged in

carrying out the execution or enforcement of this chapter. Specifically, no person shall prevent, delay, hinder, or interfere with the Director or any of the Director's agents in the planting, maintaining, or removing of any flora that may be growing in or on any municipal property within the City of Oberlin; or in the removal of any stone, cement, or other materials or articles from or about the trunk or stem of any flora, as covered in SECTION 907.11, that may be growing in or about any public street, alley, place, park, or other municipal area. Provided in the execution or enforcement of this Chapter is that nothing shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.

907.04 PERMITS REQUIRED

When work is performed on any flora located within the curblawn or municipal property a permit shall be required. Under the provisions of the Chapter, the Director shall issue the proper permit as outlined below. Each and every permit shall specifically describe the work to be completed; shall expire by law sixty (60) days after date of issue; and shall only be extended by the Director in writing.

(a) A PLANTING-ONLY PERMIT

Under the provisions of this permit, only new plantings of flora shall be authorized. The permit application shall state the number and name of each species, cultivar, or variety of trees, shrubs, or

ornamental grasses; the location, grade, and size; the method of planting; and any other information as the Director shall find reasonably necessary to make a fair determination of whether a permit shall be issued.

(b) A MAINTENANCE-ONLY PERMIT

Under the provisions of this permit, only the general maintenance or care of any flora within the curblawn or municipal property shall be authorized. The permit application required herein shall state the number and name of each species, cultivar, or variety of trees, shrubs or ornamental grasses to be sprayed, fertilized, pruned, or otherwise maintained; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Director shall find reasonably necessary to make a fair determination of whether a permit should be issued.

(c) A PLANTING, MAINTENANCE, AND REMOVAL PERMIT

Under the provisions of this permit any combination of new plantings, plant maintenance, and the removal of any entire plant within the curblawn or municipal property shall be authorized.

The permit application required herein shall state the number and name of each species, cultivar, or variety of trees, shrubs, or ornamental grasses to be planted, sprayed, fertilized, pruned, or otherwise maintained or removed; the method of planting, the kind of

treatment to be administered including the composition of the spray material to be applied; or the manner of removal; and any other information as the Director shall find reasonably necessary to make a fair determination of whether a permit shall be issued.

(d) A REMOVAL, REPLANTING, OR REPLACEMENT PERMIT

Under the provisions of this permit, only the removal and replanting or the removal and replacement of any flora within the curblawn or municipal property shall be authorized.

The permit application required shall state the number and name of each species, cultivar, or variety of trees, shrubs, or ornamental grasses to be removed as well as the number and name of each species, cultivar, or variety of trees, shrubs, or ornamental grasses to be either replanted or replaced; the manner of removal; and the method of replanting or replacing; and any other information as the Director shall find reasonably necessary to make a fair determination of whether a permit shall be issued.

907.05 APPLICATION FOR PERMIT

No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any flora within the curblawn or municipal property without first filing an application and finally procuring a permit from the Director of the Grounds Department. Application for permits must be made at the office of the Grounds Department not less than sixteen (16)

work hours before the task is scheduled to commence.

The Director shall issue a permit provided herein if, in the Director's judgement, the proposed work is desirable and the proposed method, manner, and workmanship are of an acceptable nature. The person receiving the permit shall abide by the National Arborist Association Standards as adopted by the City of Oberlin.

Any permit shall be void if its terms are violated. Further, whenever any flora is planted or set out in conflict with the provisions of this section, it shall be lawful for the Director to remove or cause the removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law.

Notice of completion of work under the terms of the permit shall be given within five (5) working days to the Director for his inspection.

907.06 PRUNING STANDARDS FOR CURBLAWS AND MUNICIPAL PROPERTY

Pruning of flora within the curblawns and municipal property shall be performed by workers who, through related training and on-the-job experience, are familiar with the techniques and hazards of this work. Pruning work shall include trimming, maintenance, repair, thinning, or the complete removal of any flora as well as the equipment required for such operations.

The use of climbing spurs or irons is prohibited during pruning operations on live trees.

As stated in SECTION 907.05 APPLICATION FOR PERMIT, all pruning work within the curblawns and municipal property of the City of Oberlin shall abide by the National Arborist Association

Standards.

907.07 BRACING, CABLING, AND GUYING STANDARDS

All bracing, cabling, and guying of trees shall be performed by workers who, through related training and on-the-job experience, are familiar with the techniques and hazards of this work.

The use of climbing spurs or irons is prohibited during bracing, cabling, or guying operations.

All work will meet or exceed the performance standards on bracing, cabling, and guying shade trees as established by the National Arborist Association, and as adopted by the Oberlin City Council.

907.08 ABUSE OR MUTILIZATION OF PUBLIC TREES

No person shall damage, cut, carve, or remove any flora within the curblawn or municipal property of the City of Oberlin.

No person shall attach any rope, wire, nail, or advertising posters to any flora within the curblawn or municipal property of the City of Oberlin.

No person shall allow any gaseous, liquid, or solid substance which is harmful to the flora to come in contact with the flora within the curblawn or municipal property of the City of Oberlin.

No person shall set fire or permit any fire to burn, when such fire or the heat thereof, will injure any portion of any flora within the curblawn or municipal property of the City of Oberlin.

907.09 PROHIBITED SPECIES

No flora species that is subject to soft or weak wood shall be used or planted on the curblawn. A list of such prohibited species is available from the Grounds Department.

No flora species that is subject to having water-seeking roots shall be used or planted on the curblawn. A list of such prohibited species is available from the Grounds Department.

No flora species that will cause or tend to cause a hazardous or unsafe condition either to pedestrians or motorists shall be planted, placed or used within the curblawn of the City of Oberlin.

907.10 PROTECTION OF FLORA DURING CONSTRUCTION

No person or property owner shall remove or cause the removal of any flora from the curblawn for the purpose of construction, or for any other reason, without first applying for and finally procuring written permission from the Director in accordance with SECTION 907.04 PERMITS REQUIRED and SECTION 907.05 APPLICATION FOR PERMIT.

No person shall excavate any ditches, tunnels, trenches, or areas for vehicular access, within a fifteen (15) foot radius measured from the center of any public tree, without first applying for and finally procuring written permission from the Director.

All flora within the curblawn or municipal property near the construction or excavation of any building, structure, or private vehicular access sites shall be protected. Protection of flora shall mean the guarding of flora with a good substantial fence,

frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., whichever is greater. All building material, dirt, or other debris shall be kept outside this protection barrier.

907.11 PLACING OR STORING MATERIAL ON CURBLAWNS OR PUBLIC PROPERTY

No person shall deposit, place, store, or maintain upon any curblawn or municipal property any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree or flora growing therein, except with written permission of the Director.

907.12 ELECTRICAL DEVICES NEAR FLORA

No person shall attach any electrical wire, insulation, pole, or other device for holding an electric phone, cable T.V. device, or any communication device to any flora growing within the curblawn or municipal property. Every person owning or maintaining any wire or wires charged with an electrical current shall securely fasten and place them so that they will not damage any flora within the curblawn or municipal property.

907.13 REMOVAL OF GUARDS OR SHIELD DEVICES

No person shall be permitted to remove any shield devices within the curblawn or municipal property without the written consent from the Director.

It shall be unlawful for any person to remove, damage, or misuse any guard, shield, bollard, grate, post, stake, planter, curb, drain, mat, plastic, wrap, mulch, soil, any growing medium or other protective objects which has been placed around, or that

is intended to protect any flora growing within the curblawn or municipal property of the City of Oberlin.

Written consent from the Director shall be required to move or relocate any guard, shield, bollard, grate, post, stake, planter, curb, drain, mat, plastic, wrap, mulch, soil, any growing medium or other protective objects within the curblawn or municipal property.

907.14 STREET TREE PLANTING PLAN

The Street Tree Planting Plan of January 21, 1971, prepared under the direction of a landscape architect and presented by the Planning Commission, was adopted on March 15, 1971 as the official Street Tree Planting Plan of the City. Such plan consists of a map showing the location of needed trees in the curb lawn by size (small, medium, and large). It also includes a list of trees recommended for street tree planting by size, as follows:

Large Trees

Red Maple
Sugar Maple
Red Oak
Thornless Honey Locust
Scarlet Oak
Sweet Gum
Gingko
Wheatleyi Smooth-leaf Elm

Norway Maple
Pin Oak
Crimean Linden
London Plane Tree
Silver Linden
Seedless Ash
Black Gum or Tupelo
Japanese Pagoda Tree

Medium Trees

Little Leaf Linden	Callery Pear
Tilford Red Maple	Yellowwood
Red Horse Chestnut	Amur Cork Tree
Hop Hornbeam	Sargent Cherry
Flowering Ash	Sentry Gingko
Columnar Norway Maple	

Small Trees

Globe Norway	Trident Maple
Korean Mountain Ash	Upright Hornbeam
Washington Hawthorn	Eastern Redbud
Flowering Crabapple	Japanese Cherry
Purple Leaf Plum	Golden Rain Tree

This Plan shall be available for inspection in the office of the Clerk of Council by any interested person.

907.15 TREE PLANTING TRUST FUND

A fund known as the Tree Planting Trust Fund is hereby created.

To be eligible for reimbursement of planting cost the minimum size permitted for planting shall be two (2) inches D.B.H. Street trees that have been approved by the Director and which are less than two (2) inches D.B.H. shall remain the responsibility of the property owner until such time that such trees grow in size to meet the City's minimum standards.

Bare root plants shall not be permitted where reimbursement of planting costs are sought.

All gifts of money received and accepted by or on behalf of the City for planting on curblawns or municipal property shall be paid into such separate Fund. The Auditor shall make payments

from the Fund upon presentation of vouchers or orders thereof by the proper city officials. Disbursements shall be made for the purpose of planting trees in accordance with the official Street Tree Planting Plan or for planting trees on municipal properties; however, money given and accepted for a specific purpose within the general purpose shall be disbursed only for such specific purpose.

The City Manager and Auditor, or either of them, are hereby authorized to accept on behalf of the City of Oberlin all gifts of money for the purpose of planting trees in accordance with the official Street Tree Planting Plan or within the curblawn or municipal property. A gift given expressly for a specific purpose shall be accepted by motion and vote of Council before the City shall be deemed to have accepted it. If such motion to accept is rejected by Council, the gift, if already delivered to the City, shall be returned to the donor.

907.16 REIMBURSEMENT FOR CURBLAWN TREE PLANTING

The City Manager is hereby authorized to reimburse individuals for the purchase of curblawn trees. Such reimbursement shall cover one-half of the total amount expended for a curblawn tree planting, but shall not exceed one hundred dollars (\$100.00) per improved lot. Only plantings which conform to the official Street Tree Planting Plan will be eligible. In addition, all eligible plantings must be made in accordance with the Street Tree Ordinance. An application must be made for reimbursement with eligibility to be determined by the City Manager.

907.17 TREE PLANTING IN NEW SUBDIVISIONS AND PLANNED
RESIDENTIAL DEVELOPMENTS (PRD)

The City Planning Commission shall require subdividers to plant or provide trees within curblawns on each and every lot as well as in all common open space areas. As a part of a subdivision plat submittal, a Planting Plan or Landscape Plan shall be included. This Planting Plan or Landscape Plan shall be reviewed by the Planning Commission, the City Engineer, and the Grounds Director for their approval. Cooperation and advice will be given to the subdivider on acceptable species of flora.

No flora shall be planted which will impair visibility at any corner or cause any safety or health hazard.

907.18 HEIGHT OF LOWER LIMB ON ALL CURBLAWN TREES

All trees shall be pruned in accordance with the National Arborist Association Standards as adopted by the City of Oberlin. All trees shall be pruned to a minimum eight (8) foot clearance once a minimum of three (3) scaffold branches or limbs have been produced above this clearance limit. Pruning and care of all curblawn and municipal flora shall be governed by SECTION 907.04 PERMITS REQUIRED, SECTION 907.05 APPLICATION FOR PERMIT, and by SECTION 907.06 PRUNING STANDARDS FOR CURBLAWNS AND MUNICIPAL PROPERTY.

907.19 NOTIFICATION OF VIOLATION: APPEAL PROCEDURE

If the Director determines that a violation of this chapter exists, the Director shall give written notification to the owner of such property. This written notification shall be sent by certified mail.

Such notice shall state the nature of the alleged violation; the action deemed necessary to correct the condition; and the date, a minimum of ten (10) calendar days from the notification, in which to abate the offending condition.

The owner shall have fifteen (15) calendar days from the date the owner receives notification, to make an appeal to the Open Space Commission in regards to the alleged violation or permit denial. The Open Space Commission shall have fifteen (15) calendar days to review and make a decision on an owner's appeal. Any owner may, within fifteen (15) days of the decision of Open Space Commission, appeal to City Council by filing a notice of appeal with the Open Space Commission and with the Clerk of Council. The City Council shall hear and decide the appeal within thirty (30) days from the filing of the appeal with the Clerk of Council.

Ten (10) calendar days after notification of violation was received, the Director shall determine if abatement has occurred. If abatement has not occurred, and no appeal has been filed, then the Director, or his contractual agent, shall enter upon such property and abate the offending condition.

907.20 PROCEDURAL AND LABOR CHARGES

For its services rendered in the enforcement of this chapter with respect to the correction of violations, the owner(s) so affected shall pay to the Grounds Department or the City of Oberlin Auditor, the actual cost incurred by the Grounds Department for the use of each piece of equipment and the required labor necessary for abating the violation.

907.21 LIEN

Whenever any flora is not in compliance with this chapter and is contiguous to and growing over any street, curblawn or municipal property, it shall be trimmed or removed by the City. Once the work has been completed, the Director shall give five (5) calendar days notice, by regular mail, to the owner of such lot or parcel of land, at his last known address, to pay the cost of such trimming or removal, which notice shall be accompanied by a statement of the amount of cost incurred. In the event the statement amount is not paid within thirty days after the mailing of the notice, such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected, together with a penalty of five percent, simple annual interest.

907.99 PENALTY

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100) a day. Each day such violation continues shall constitute a separate offense.