

Proposed by:  
Personnel Committee

**ORDINANCE NO. 123-00**

**AN ORDINANCE AMENDING CHAPTER 907 OF THE CODIFIED ORDINANCES OF THE CITY OF CHILLICOTHE.**

**WHEREAS, the City Council and the City Tree Commission of the City of Chillicothe feels it is in the best interests of the City of Chillicothe to amend the above-mentioned Chapter of the codified Ordinances pertaining to the City Tree Commission; now, therefore,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHILLICOTHE, STATE OF OHIO:**

907.01 INTENT AND PURPOSES.

It is the intent of the City to promote the public health, safety and general welfare by providing for the placement and care of trees within the City; to provide for removal, trimming or pruning of trees; to provide for removal of diseased or nuisance trees; and to encourage property owners to plant trees that will thrive and beautify the City.

907.02 DEFINITIONS.

For the purposes of this chapter the following words and their derivations have the meaning defined below. Words not defined are given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The words "shall" or "must" are mandatory; the word "may" is permissive.

(a) "Growth inhibiting measure" is defined as any chemical, structural or mechanical treatment that inhibits the growth of trees.

(b) "Prune" is defined as removal of plant parts dead or alive in a careful and systematic manner so as to not damage other parts of the plant.

(c) "Public right of way" is defined as the land, property, or interest therein acquired for or devoted to transportation purposes, and includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the state or local authority.

(d) "Topping" is defined as the severe 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.

(e) "Tree" is defined as a perennial plant having a permanent woody stem or trunk and, usually, branches.

(f) "Trees growing along public streets and ways" is

defined as any tree located within the public right of way(c).

907.03 RESPONSIBILITY; REPLACEMENT.

Trees growing along the public streets and ways are the responsibility of the property owner. However, the City reserves the right to provide care, maintenance, removal and replacement along the public streets and ways.

907.04 ADMINISTRATION.

The Safety Service Director shall direct and enforce the provisions of this chapter and designate the City departments and/or contracting services which shall carry out the provisions requiring City action.

907.05 PERMITS & LICENSES.

(a) No person, contractor or City department shall hereafter plant, remove, prune, or treat with growth inhibiting measures, any trees growing along any public streets or ways, without obtaining a public tree permit from the Safety Service Director. A public tree permit shall be free of charge and shall specify the number of trees, size, type, species, and location to be planted, pruned, treated or removed.

(b) Public tree permit applications shall be reviewed by the City Tree Commission prior to being issued by the Safety Service Director. All permits for pruning of public trees shall be in conformance with the most recent standards set forth by the National Arborist Association Pruning Standards For Shade Trees and in compliance with American National Standards Institute guidelines. (ANSI A300).

(c) Public tree permits shall be valid for a maximum period of sixty days, unless otherwise specified. All work approved by the permit shall be completed in the time specified by the permit and in the manner described. Permits shall be considered void if the terms are violated.

(d) The Safety Service Director or an appropriate designee shall have the authority to deny a permit to any person or contractor who proposes to plant any tree upon a public street or way if the tree is of a size, type or species determined to be undesirable for the proposed location, or if the location is determined to be unsuitable for such tree.

(e) No person or firm shall engage in the business or occupation of pruning, treating, or removing trees within the City without first applying for and procuring a license. The license fee shall be twenty-five dollars (\$25.00) paid annually in advance. Before any license shall be issued, any individual, partnership corporation and/or association shall furnish proof to the Safety Service Director of liability insurance in the amount of one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand (\$300,000) per aggregate occurrence for personal injury and fifty thousand dollars (\$50,000) for property damage.

(f) Nothing in this section shall be construed to require the owner of land upon which a tree is trimmed or removed to

obtain a license to trim or remove a tree on the owner's property.

907.06 APPROVED TREES FOR PLANTING.

(a) The Chillicothe Tree Commission shall approve and maintain a list of all trees suitable for planting along any public street or way, a copy of which shall be kept on file with the Safety Service Director and the Chillicothe Tree Commission. The list shall constitute the official tree species for Chillicothe, Ohio, and shall classify such trees as Small Trees (15-30 feet in height), Medium Trees (30-45 feet in height), and Large Trees (trees in excess of 45 feet in height). No species other than those included in the approved list may be planted along any public street or way without prior written permission of the City Tree Commission.

(b) The following species of trees may not be planted on public rights of way.

Silver Maple	aka: Soft Maple, Swamp Maple	<u>Acer saccharinum</u>
Box Elder	aka: Ash leaf Maple	<u>Acer nugundo</u>
Ailanthus	aka: Tree of Heaven, Skunk Tree, Weed Tree, Stink Tree	<u>Ailanthus altissima</u>
Siberian Elm	aka: Chinese Elm*	<u>Ulmus pumila</u>
Poplars**	aka: Aspen, Cottonwood	<u>Populus sp.</u>

\*The true Chinese Elm, Ulmus parvifolia is a good street tree.

\*\* The Yellow Poplar or Tulip Tree, Liriodendron tulipifera, commonly known as the Tulip Poplar, is not a true poplar but must be considered carefully before using as a street tree.

907.07 LOCATION ON CITY-OWNED PROPERTY AND RIGHTS OF WAY.

(a) The minimum spacing between trees planted on any public streets or ways shall be forty (40) feet for large trees, twenty-five (25) feet for medium trees and fifteen (15) feet for small trees.

(b) The distance trees may be planted from curbs or curblines and sidewalks shall be determined in accordance with the three size classes listed in this chapter. No trees may be planted closer to any curb or sidewalk than the following:

- (1) small trees, one and one half feet;
- (2) medium trees, two feet; and
- (3) large trees, two and one half feet.

(c) Trees shall not be planted closer than 20 feet from any street corner, as measured from the point of nearest intersecting curbs or curblines. No tree shall be planted closer than 10 feet from any fire hydrant or utility pole.

(d) A small tree shall be used when planting under or within ten lateral feet of overhead utility wires. A small or medium tree shall be used when planting within ten to twenty

lateral feet of overhead utility wires.

907.08 REMOVAL ON PUBLIC PROPERTY

(a) The City shall have the right to plant, prune, maintain and remove trees or portions thereof within the rights-of-way of all public streets or ways as may be necessary to insure public safety or to preserve or enhance the health of the plant material or the beauty of such public grounds.

(b) The Safety Service Director may remove or cause or order to be removed, any tree or part thereof which is in any unsafe condition or which by reasons of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners who have obtained a public tree permit from the Chillicothe Tree Commission.

(c) The City shall have the right to enter private property to access trees adjacent to public areas for the purpose of proper pruning, after reasonable prior notice has been given to the property owner. Except in the case of emergency, such notice shall be in writing by certified mail, return receipt requested, specifying the anticipated date of such pruning. Only those portions of such trees which protrude or overhang a public area as set forth in section (a) shall be pruned by the City. To insure that street trees thrive, homeowners are encouraged to confer with the City Tree Commission and water the trees as needed.

907.09 REMOVAL ON PRIVATE PROPERTY.

The City shall have the right to cause the removal of any dead or diseased trees located on private property within the City and/or cause the removal of branches of trees located on private property within the City which overhang public property, when such trees constitute a hazard to life and property, or harbor an epiphytotic disease which constitutes a potential threat to other trees within the City. The Safety Service Director shall notify the owners of such trees, in writing by certified mail, return receipt requested. Removal shall be done by such owners at their own expense within sixty days after the date of service of written notice, unless a longer period is agreed to in writing by the Safety Service Director, to allow time to attempt to treat and cure a salvageable diseased tree. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove any such trees and charge the cost of removal to the owner's property tax notice.

907.10 TRIMMING.

(a) Any tree or shrub growing on private property which overhangs a public street or sidewalk shall be kept trimmed by the property owner so as to allow a minimum of eight feet

clearance where it overhangs the sidewalk and fifteen feet where it overhangs the street.

(b) Any tree growing on private property which projects into the City right of way, which hinders or obstructs the view of motorists or pedestrians using the public right of way, shall be kept trimmed or removed by the property owner to correct such view hindrance or obstruction as determined by the Safety Service Director in accordance with provisions as set forth by the Codified Ordinances of the City of Chillicothe.

(c) Utility companies shall adhere to established guidelines as recommended by the National Arborists Association for line clearance work, and shall conform to the most current standards set forth by the American National Standards Institute (ANSI Z133.1, ANSI A300). These guidelines shall include, but are not limited to, side trimming and crown reduction, tree removal, brushing, and chemical brush control and appropriate precautions. Utility companies shall provide the Safety Service Director a semi-annual tree maintenance work schedule for all tree care activity within the City. Utility companies and the contractors therefor shall conform to all licensing requirements set forth in this Chapter.

(d) It shall be unlawful as a normal proactive for any person, firm or city department to top any street tree, park tree or other tree on public property without prior permission of the City Tree Commission or Safety Service Director. 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 exempt from this ordinance at the determination of the City Tree Commission.

(e) All stumps of street and park trees shall be removed twelve inches below the surface of the ground. Stumps shall be removed or ground at the site. All residual material shall be removed from the site at the time the tree is removed.

#### 907.11 NONCOMPLIANCE.

If any property owner fails to comply with any order of the Safety Service Director to trim or remove trees within thirty days of the receipt of such order, the City shall remove or trim the trees and the cost shall be assessed against the property owner. The Director shall notify the owner of the order by certified mail, return receipt requested, and shall send the cost bill by the same service to the owner. If the owner fails to pay the bill or make arrangements to pay the bill within thirty days, the Director shall certify to the County Auditor the amount of the cost of the work and the expenses thereto, and a correct description of the land upon or abutting the work which was done, and the Auditor shall place the amount upon the tax duplicate to be collected as other taxes.

#### 907.12 PROTECTION OF TREES.

(a) Unless specifically authorized by the Tree Commission or Safety Service Director, no person, company, or its representative shall purposely:

- (1) damage, cut, carve, transplant, or remove any tree;
- (2) attach any rope, wire, nails, advertising posters, or other contrivance to any tree;
- (3) allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with trees; or
- (4) set fire or permit fire to burn when such fire or the heat thereof will injure any portion of any tree.

(b) Utility companies shall be responsible for keeping overhead lines from coming into contact with the trees and from allowing gaseous substance to cause damage to trees.

907.99 PENALTY

(a) Whoever violates any provision of Section 907.05 is guilty of a minor misdemeanor on the first offense and is guilty of a fourth degree misdemeanor for any subsequent offense occurring within one year from the date of the commission of the first offense.

(b) Whoever violates section 907.12 shall be fined \$100.00.

(c) Whoever violates any other provision of this chapter shall be fined not more than twenty-five dollars (\$25.00). Each day such violation exists shall constitute a separate offense.

**SECTION 2.** Currently existing Chapter 907 of the Codified Ordinances of the City of Chillicothe, Ohio is hereby repealed.

**SECTION 3.** Funding for this Ordinance shall not exceed the sum of \*

**SECTION 4.** This Ordinance shall be in full force and effect from the earliest date provided by law.

\* Ten Thousand Dollars

Passed: Nov. 13, 2000 (\$10,000.00) annually for any particular calendar year

Robert L. Shultz  
PRESIDENT OF COUNCIL

Attest:

John L. Fossen  
CLERK OF COUNCIL

Approved: Nov. 13, 2000 FILED WITH THE MAYOR

Margaret Planton Nov. 13, 2000  
MAYOR

Voting "yea" were the following members of Council:  
Bonner, Carnes, Daniels, Magill, Rinehart, Scholl, Taylor and Trutschel. (Herlihy absent.)