

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING CREATING AND ENACTING ARTICLE 180 OF THE ADMINISTRATION CODE CHAPTER 7 ENTITLED: BOARDS AND COMMISSIONS BY ADDING ARTICLE 180 ENTITLED MUNICIPAL TREE BOARD

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. Article 180 of the Administration Code Entitled: Municipal Tree Board of the Codified Ordinances is created and shall hereafter read as follows:

ARTICLE 180

Municipal Tree Board

- 180.01 Purpose.**
- 180.02 Authority and Power.**
- 180.03 Tree Advisory Board.**
- 180.04 Tree Planting and Care Standards.**
- 180.05 Trees not on Municipally owned public property.**
- 180.06 Prohibition against harming public trees.**
- 180.07 Certain Trees declared a nuisance.**
- 180.08 Penalty**
- 180.09 Appeals**
- 180.10 Severability**
- 180.11 Other sections of the Codified Ordinance of the City of Wheeling including but not limited to those noted herein remain in full force and effective.**

180.01 Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on municipally owned public property, the City Council herein to enhance the management of its municipally owned public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on municipally owned public property, and makes provision for the emergency removal of trees on municipality owned public property under certain conditions. The Tree Advisory Board shall be relied upon by the City Administration to provide its expertise in creating, evaluating, and supplying guidance to the City Administration for Public Projects and Municipality planned improvements.

180.02 Authority and power.

(a) Delegation of authority and responsibility. The City Manager, Assistant City Manager and/or their designee, has full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal city parks, and other municipally owned public property. This shall include the removal of municipally owned trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by

fungus, insect, or other pest disease. The City Administration will coordinate these efforts with its Tree Board.

(b) Coordination among city departments. All city departments will coordinate as necessary with the office of the City Manager and will provide services as required to ensure compliance with this Ordinance as it relates to municipal public property.

(c) Interference. No person shall hinder, prevent, delay, or interfere with the City Manager or agents of the City Manager while engaged in carrying out the execution or enforcement of this Ordinance.

180.03 Tree advisory board.

The City Council hereby creates a “Tree Advisory Board,” hereinafter referred to as the “Board.” 1) **Duties.** The Board shall act in an advisory capacity to the office of the City Manager and shall:

- a) Coordinate and promote Arbor Day activities;
 - b) Create, review and update a five-year plan to plant and maintain trees on municipally owned and maintained public property;
 - c) Support public awareness and education programs relating to trees;
 - d) -Work in collaboration with the Parks and Recreation Department, the Public Works Department, the Department of Development, the Legal Department, the Planning Commission, and other City/County agencies and commissions as requested by the City Manager and as needed.
 - e) Review city department concerns relating to tree care on municipally owned public property;
 - f) Submit an annual report of its activities to the city council;
 - g) Assist with the annual application to renew the Tree City USA designation;
 - h) Recommend a list of tree species for planting on municipally owned city property, and a list of prohibited species for such property; and
 - i) Assist in preparing and evaluating bid documents for Municipal projects concerning trees and landscaping for City of Wheeling projects; and
 - j) Other duties that may be assigned by the office of the City Manager.
- 2) **Membership.** The Board shall consist of not less than seven nor more than ten members appointed by the Mayor and approved by City Council. Members of the Board will serve without compensation.
- a) Members shall be residents of the City of Wheeling and/or Ohio County or the entities or agencies which they serve shall have a nexus to such geographic area.
 - i) Of the members, at least one shall:
 - (1) Have specialized knowledge and expertise regarding tree management and care.
 - (2) Be a sitting member of City Council as selected by Council.
 - (3) Be an official representative of the Public Works Department
 - ii) Of the members at least three shall be interested residents from various neighborhoods

- b) Term of office. Board members shall be appointed for three-year staggered terms. Members may serve consecutive terms as approved by the Mayor. If a vacancy shall occur during the term of any member, a successor shall be appointed by the Mayor and approved by City Council.
- c) Officers. The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- d) Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public with executive sessions as necessary. The Board chair may schedule additional meetings as needed.

180.04 Tree planting and care standards.

- 1) Standards. All planting and maintenance of municipally owned public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- 2) Requirements of franchise utility companies. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- 3) Preferred species list. The City shall maintain an official list of do not plant tree species for planting on municipally owned public property. This list should be reviewed periodically for species of concern and kept on file at the Public Works Department and the Assistant City Manager.
- 4) Planting distances. The Tree Board shall develop and maintain an official set of spacing requirements for the planting of trees on municipally owned public property. No tree may be planted within the visibility triangle of a street intersection, street and/or traffic/directional signs, or within 10 feet of a fire hydrant.
- 5) Planting trees under electric utility lines. Municipally owned public trees should not be planted which will interfere with overhead utility wire.

180.05 Trees not on municipally owned public property.

Trees located on land other than municipally owned public property are the property and responsibility of the owner of such land. Such trees may have usefulness, and value in energy conservation; in moderating extremes in temperature and humidity; in moderating storm water runoff; in reducing noise, glare and air pollution; in reducing soil erosion; in traffic calming; and in improving the City's aesthetic character. To encourage the conservation of this resource, the City Manager with the assistance of the City Tree Board, take the following measures:

- (a) Provide to the public any and all public documents utilized by the City as noted herein in an effort to assist private Landowners in their private endeavors and decisions regarding trees on their private property or property adjacent to such which is the responsibility of said private property landowner.
- (b) Provide leadership for Arbor Day observances and other public education efforts.

180.06 Prohibition against harming public trees.

- 1) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on municipally owned public property without written permission from the City Manager's office.
- 2) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any municipally owned public tree.

180.07 Certain trees declared a nuisance.

- 1) Any tree, or limb thereof, on private property determined by the City to have contracted a lethal, communicable disease or insect; and to be dead or dying; and obstruct the view of traffic signs or the free passage of pedestrians or vehicles; and threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.
- 2) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such nuisance trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the City within the written notification period.

180.08 Penalty.

Any person, firm or corporation violating any provision of this Ordinance shall be subject to a fine not less than five hundred dollars (\$500.00) for each offense. Each violation of this Section shall constitute a separate violation subject to separate fines being applied per violation.

180.09 Appeals.

Appeals to the decision of the City Manager regarding penalties imposed due to violations shall be heard by the Municipal Court.

180.10 Severability.

Should any word, sentence, clause, paragraph, or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect other sections of the Codified Ordinance of the City of Wheeling including but not limited to those noted herein remain in full force and effective.

180.11 Other sections of the Codified Ordinance of the City of Wheeling including but not limited to those noted herein remain in full force and effective.

See Generally Wheeling City Code

907.01 INTERFERENCE WITH TRAFFIC OR STREET LIGHTING PROHIBITED.

No owner or occupant of any property in the City shall permit any tree, limb, branch or part thereof upon such property to grow to such a size or to be or remain in a condition whether by decay or otherwise, that it is, unless trimmed or removed, an interference with travel, or dangerous to travelers, upon any public way, street or alley of the City, or permit the same to grow so as to obstruct the light from any electric lamp or other appliance used by the City for the lighting of its streets, alleys and ways. Any tree, limb, branch or part thereof permitted to so grow or to be in the condition described herein is hereby declared to be a nuisance. (1961 Code Sec. 907.01)

See Generally Wheeling City Code

907.01 Obstructions

It shall be the duty of any person or persons owning or occupying real property bordering on any public street upon which there may be trees to prune trees on the person's property in a manner that they will not obstruct or shade street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of street signs, or obstruct view of a street or alley intersection or obstruct the view of the operator of any motor vehicle with regard to other vehicles, traffic sign or signals, or pedestrians along the street. The minimum clearance for any overhanging portion thereof shall be 8 feet over sidewalks and 15 feet over all streets or another height determined in the discretion of the City Manager .

Any hedge, tree shrub, 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, other growth or fencing obstructs the view of the operator of any motor vehicle with regard to other vehicles, traffic signs or signals, or pedestrians approaching or crossing such intersection, and such public nuisance may be summarily abated in accordance with the provisions of this Code Section.

See Generally Wheeling City Code

907.02 NOTICE TO DESTROY; CUTTING AT OWNER'S EXPENSE; LIEN.

The Director of Public Works is authorized and empowered to give a written notice to the owner of any such tree, limb, branch or part thereof, or to the agent of such owner, or to the occupant of the premises upon which such tree, limb, branch or part thereof is growing, to trim or remove any such tree, limb, branch or part thereof. Such notice may be personally served upon the owner, his agent or the occupant of the property or may be mailed by registered mail addressed to such owner, agent or occupant at his last known address.

Upon the failure, neglect or refusal of any such owner, agent or occupant so notified to trim or remove such tree, limb, branch or part thereof within ten days after receipt of the written notice herein provided for, the Public Works Director shall have the option to either:

- (a) Cause a warrant to be issued against any person owning or occupying the premises upon which such tree, limb, branch or part thereof is growing, or
 - (b) Order the trimming and removal of such tree, limb, branch or part thereof by the City.
- (1) Charge included in tax bill. When the City has effected the trimming or removal of such tree, limb, branch or part thereof, the actual cost thereof, plus accrued interest at the rate of six percent (6%) per year from the date of the completion of the work, if not paid by the owner,

agent or occupant prior thereto, shall be charged to the owner of such property on the next bill for the service charges forwarded to such owner by the City and the charge shall be due and payable by the owner at the time of payment of such bill for service charges.

(2) Lien for charges. Where the full amount due the City is not paid by the owner, agent or occupant within sixty days after the cutting and removal of such tree, limb, branch or part thereof, the City Finance Director shall record in the office of the Clerk of the County

Commission a sworn statement showing the cost and expense involved incurred for the work, the date, place and property on which the work was done and the name of the owner thereof. Recordation of such sworn statement shall constitute a lien upon the property in favor of the City and the payment thereof may be enforced as other liens are enforced under the laws of the State.

(Ord. 9693. Passed 11-13-90.)

 **907.99 PENALTY.**

Whoever violates any provision of this article shall be fined no less than five hundred dollars (\$500.00) or nor more than one thousand dollars (\$1,000.00). (Ord. 9693. Passed 11-13-90.)

This ordinance shall be effective from and after the date of its passage.

By the Administration.