

Ordinance No. 1223-13

Council Member Brancatelli

AN EMERGENCY ORDINANCE

To amend Sections 509.01, 509.13 and 509.19 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 63410-A, passed September 22, 1924, relating to tree planting permits and property owner's responsibility to trim or remove trees.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

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

Section 1. That Sections 509.01, 509.13 and 509.19 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 63410-A, passed September 22, 1924, are hereby amended to read, respectively, as follows:

Section 509.01 Climbing, Breaking, Injuring Trees Prohibited; Exceptions; Permit

No person, firm or corporation without a written permit from the Director of Public Works shall cut, break, climb or injure any tree or portion of tree planted or growing in any public highway within the City or cause, authorize or procure any person to cut, break, climb or injure any such tree or portion thereof; cut, break, climb or injure any tree or plant, or injure, misuse or remove, or cause, authorize or procure any person to injure, misuse or remove any device set for the protection of any tree or plant in any public highway of the City. Any person, firm or corporation desiring for any lawful purpose to cut, prune, treat, with a view to its preservation from disease or insect, or trim any tree in any public highway of the City, may apply to the Director, and if in the judgment of the Director the desired cutting, pruning, treatment or trimming appears necessary and the proposed method and workmanship thereof are such as the Director approves, the Director may thereupon issue a written permit for such work. Any work done under such written permit must be performed in strict accordance with the terms thereof. The Director shall issue a permit to a property owner requesting the permit in order to comply with Section 509.19, unless the Director determines pursuant to division (b) of that section, that the City will trim or remove the tree.

Section 509.13 Tree Planting Permit; Planting Plan

(a) No person, firm or corporation shall plant or set out any shade tree or cause or authorize or procure any person to plant or set out any shade tree, in or on any part of any public highway within the City, without first obtaining from the Director of Public Properties a written permit to do so or without complying in all respects with the conditions set forth in such written permit.

(1) The Director of Public Works shall issue a permit to any person, firm or corporation who intends to plant trees in the public right of way, after such person, firm or corporation completes an application for such permit, which application shall contain the name and contact information of applicant; the number and type(s) of trees to be planted; the exact location of tree(s) to be planted; and an acknowledgement that the applicant has complied, or will comply, with Section 3781.28 of the Revised Code, which requires a person to call the Ohio Utilities Protective Service at least 48 hours prior to digging.

(2) The holder of the permit shall not hold the City liable for any damage caused to persons or property however caused, through the exercise of the permit issued.

(b) Before any permit shall be issued for planting more than twenty-five (25) trees on any one (1) permit, the Director may request from the applicant a detailed declaration of intentions either in the form of a planting plan or written statement in duplicate. All planting plans shall be drawn on tracing cloth in ink. One (1) copy of each plan or statement of intentions shall, when approved by the Director, be returned to the applicant and the other copy shall be kept on file by the Director.

(c) All planting plans shall show accurately:

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- (1) The proposed street width, together with its subdivisions of pavement, curb, gutter, parking strip and sidewalk areas, to a definite indicated scale;
 - (2) The proposed location of each and every proposed tree together with the location of each existing within the proposed street lines in scaled relation to the other features of the plan;
 - (3) The variety of each and every tree proposed to be planted and of those already existing within the proposed street lines, either indicated on the plan or referenced with a number to key list;
 - (4) The distance between trees in any one (1) row in feet;
 - (5) The nature of the soil in the planting space, to a depth of three (3) feet, and all existing and proposed surface or subsoil drainage system.
- (d) All statements filed in lieu of a planting plan shall contain the same information as required on the plan

Section 509.19 Property Owner's Responsibility to Trim or Remove Trees; Permit

(a) The owner or agent of any lot or parcel of land fronting on any street, avenue or public ground in the City, in which shade trees are planted and growing, shall trim or cause to be trimmed, the branches from the trees in or in front of their respective lots or lands, near which any street lamp is placed, so as not to obstruct the passage of light from such lamp to the street or sidewalk adjacent, and shall trim all branches overhanging any sidewalk or roadway, so as to have a clear height of eight (8) feet above the surface of the sidewalk, and a clear height of ten (10) feet above the surface of the roadway, unobstructed by branches, and shall remove from the trees all dead, decaying and broken limbs or branches that overhang the sidewalk or street, or are liable to fall thereon. When any trees are dead the owner thereof shall take up, or cause to be taken up, the dead trees and remove the same from the lot or parcel of land.

(b) No owner or agent may trim or remove a shade tree located on a lot or parcel of land fronting any street, avenue or public ground in the City until he or she has obtained a written permit to do so from the Director of Public Works, pursuant to Section 509.01. The Director shall review the location of the shade tree(s) that are the subject of the application and, within 10 days of the date of the application shall either trim or remove the shade tree, or shall issue a permit allowing the applicant to do so. If the City trims or removes the shade tree pursuant to this division (b) such shall be done at the City's expense.

(c) If any owner or agent of any lot or land in which shade trees are planted fails or refuses to comply with the requirements of this section, after being duly notified to do so, the Shade Tree Commissioner shall cause the same to be done at the expense of the owner of the property in or in front of which the trees may be located, which expense, together with the cost of suit, may be collected by a suit in Municipal Court

Section 2. That existing Sections 509.01, 509.13 and 509.19 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 63410-A, passed September 22, 1924 are hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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REPORT
after second Reading

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READ FIRST TIME

REPORTS

and referred to DIRECTORS of Public Works, Finance, Law;
COMMITTEES on Public Service, Legislation, Finance
by the council SEPTEMBER 16, 2013

CITY CLERK

READ SECOND TIME

by the council

CITY CLERK

READ THIRD TIME

by the council

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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