

ORDINANCE NO. 16-95

VILLAGE OF SPENCER TREE ORDINANCE

BE IT ORDAINED by the Council of the Village of Spencer, Ohio, three-fourths (3/4) of its members concurring herein as follows:

Section 1. Definitions

Street Trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village of Spencer.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village of Spencer, or to which the public has free access as a park.

Section 2. Creation and Establishment of a Village Tree Board

There is ^{in existence a Tree Commission} hereby created and established a Tree Board ^{does} for the Village of Spencer, Ohio, which shall consist of five (5) members, citizens and residents of this Village, who ^{are} shall be appointed by the Mayor with the approval of Council.

Section 3. Term of Office

The term of the five (5) persons to be appointed by the Mayor shall be three (3) years except that the term of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of

any member, his/her successor shall be appointed for the unexpired portion of the term. *By the Mayor.*

Section 4. Compensation

Members of the Tree Board shall serve without compensation.

Section 5. Duties and Responsibilities

It shall be the responsibility of the Tree ^{*Commission*} ~~Board~~ to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Spencer Village Council and upon their acceptance and approval shall constitute the official comprehensive Village Tree Plan for the Village of Spencer, Ohio. The Tree ^{*Commission*} ~~Board~~, when requested by the Spencer Village Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

Section 6. Operation

The Tree ^{*Commission*} ~~Board~~ shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 7. Street Tree Species to be Planted

The following list constitutes the official Street Tree species for the Village of Spencer, Ohio. No species other than those

included in this list may be planted as Street Trees without written permission of the Spencer Village Tree Board.

Small Trees

Apricot ✓
Crabapple, flowering (sp) ✓
Golden Rain Tree ✓
Hawthorne (sp) ✓
Pear, Bradford ✓
Redbud ✓
Soapberry ✓
Lilac, Jap. Tree ✓
Peach, Flowering ✓
Plum, Purpleleaf ✓
Serviceberry ✓

Medium Trees

Ash, Green
Hackberry
Honeylocust (thornless)
Linden or Basswood (sp.)
Mulberry, Red (fruitless, male)
Oak, English
Oak, Red
Pagodatree, Japanese
Pecan
Birch, River
Osageorange (Male, thornless)
Persimmon
Poplar, White
Sassafras

Large Trees

Coffeetree, Kentucky
Maple, Silver
Maple, Sugar
Oak, Bur
Sycamore
Sycamore, London plantree
Cottonwood (Cottonless, male)

Section 8. Spacing

The spacing of Street Trees will be in accordance with the three (3) species size classes listed in Section 7 of this Ordinance, and no trees may be planted closer together than the following: Small Trees, thirty feet (30'); Medium Trees, forty feet (40'); and Large Trees, fifty feet (50'); except in special plantings designed or approved by a landscape architect.

check this spacing

Commission

Section 9. Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Section 7 of this Ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, two feet (2'); Medium Trees, three feet (3'); and Large Trees, four feet (4').

Section 10. Distance from Street Corners and Fireplugs

No Street Tree shall be planted closer than thirty-five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than ten feet (10') of any fireplug.

what about yard drains

Section 11. Utilities

No Street Trees other than those species listed as Small Trees in Section 7 of this Ordinance may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

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Section 12. Public Tree Care

The Village of Spencer shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

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The Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason 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 providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this Ordinance.

Section 13. Tree Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") 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 Board. *Com*

Section 14. Pruning, Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the Village of Spencer shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village of Spencer shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

Section 15. Dead or Diseased Tree Removal on Private Property

The Village of Spencer shall have the right to cause the removal of any dead or diseased trees on private property within the Village of Spencer, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village of Spencer. *Commission*
The Village Tree Board will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such

provisions, the Village of Spencer shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Section 16. Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 17. Interference with Spencer Village Tree Board

Commission

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this Ordinance.

Section 18. Arborists License and Bond

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It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Village of Spencer without first applying for and procuring a license. The license fee shall be Twenty-five Dollars (\$25.00) annually in advance; provided, however, that no license shall be required of any public service company or Village of Spencer employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of Fifty Thousand Dollars (\$50,000.00) for bodily injury and One Hundred

Thousand Dollars (\$100,000.00) property damage indemnifying the Village of Spencer or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 19. Review by Village of Spencer Council

The Council of the Village of Spencer shall have the right to review the conduct, acts, and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Spencer Village Council who may hear the matter and make final decision.

Section 20. Penalty

Any person violating any provision of this Ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed Fifty Dollars (\$50.00).

This Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, safety, and welfare, of the Village of Spencer, Ohio, and for the particular reason that the application for designation as a TREE CITY USA by the National Arbor Day Foundation must be submitted to the State of Ohio, Division of Forestry, no later than December 31, 1995.
PASSED: ~~November 29, 1995~~

GENE CLIFFORD, Mayor

ATTEST:

ROBIN M. COLEMAN, Clerk