

CHAPTER 917

Trees

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CROSS REFERENCES

Power to regulate trees and shrubbery - see Ohio R.C. 715.20

Assessments for tree planting or maintenance - see Ohio R.C. 727.011

Trimming by utility companies - see GEN. OFF. 541.02

917.01 PURPOSE.

Canton City Council has determined that it is in the interest of the residents of the City to promote and protect their health, safety and welfare by adopting a comprehensive tree plan for the proper planting of new and replacement trees and maintaining the health and safety of existing trees within the City's Urban Forest including the public right-of-way and the City park system. Council recognizes that such a plan will enhance property values; achieve design and environmental goals of the City; reduce noise, air pollution, flooding and improve the general quality of life in the City. In order to facilitate such goals, Council hereby creates a Tree Commission which will develop recommendations for a comprehensive plan for the planting, maintenance, preservation and replacement of trees. (Ord. 50-2012. Passed 4-9-12.)

917.02 DEFINITIONS.

(a) "Arborist" means a person with expertise in the care and maintenance of trees and International Society of Arboriculture (ISA) certification.

(b) "Adjacent property owner" means the person, firm, entity or corporation owning or agent having the care of any premises abutting on any public street, lane, alley or highway in the City.

(c) "Nuisance tree or hazard tree" means any tree, shrub, bush or woody vegetation that obstructs street lights, traffic signs, the free passage of pedestrians or vehicles, interferes

with utility lines and facilities within public rights-of-way or a tree that poses a threat to public health, safety or welfare.

(d) "Public trees" means any trees on land lying within a public street, park or rights-of-way within the municipal corporate limits to which the public has lawful access.

(e) "Tree topping", also known as "heading", "tipping", "hat-racking" and "rounding over", is defined as the severe or indiscriminate cutting of tree limbs to stubs within the tree's crown to such a degree as to remove the normal canopy, or cutting limbs to the extent that the lateral branches are not large enough to assume the terminal role.

(f) "Tree" means a woody perennial plant typically having a single stem or trunk that is greater than 6" in diameter and growing to a considerable height bearing lateral branches. In addition, younger plants specifically cultivated by the city of Canton that will reach 6" or greater in diameter at breast height as they mature.

(g) "Tree lawn or devil's strip" and "street tree" means the grassy area located between the roadway and sidewalk.

(h) "Urban Forest" means the collection of all trees and woody vegetation within the Canton municipal corporate limits.

(i) "Utility" means any water, sanitary sewer, storm sewer, gas, electric, or telecommunication pipe, conduit, fiber, cable or conduit located under or above ground. (Ord. 165-2018. Passed 7-30-18.)

917.03 CREATION AND ESTABLISHMENT OF CANTON TREE COMMISSION.

(a) Canton Tree Commission. There is hereby established the Canton Tree Commission in order to assist and advise City Council, the Canton Park Commission and their agents with the creation of a comprehensive plan for the preservation, planting, maintenance, removal and replacement of trees and shrubs in the public streets, rights-of-way, parks and other municipal-owned property in the City's Urban Forest.

(b) Membership. The Canton Tree Commission shall consist of five (5) commissioners who shall be appointed by the Mayor, subject to the approval of Council, and who shall serve without compensation. Members shall be residents of the City or persons who are employed in the City. At least three members shall be experienced in or have extensive knowledge of the care of trees through documented certification and/or education including training through the Ohio Department of Natural Resources Division of Forestry known as the Tree Commission Academy. In addition, a public utility representative, a member of Council, the City Park Director, City Engineer and Director of Public Service shall serve as advisory ex officio members of the Commission. These officials or their designees shall attend all meetings of the Commission. All members shall be encouraged to attend the Tree Commission Academy as a condition of recommended reappointment.

(c) Term of Office. The term of office of commissioners shall be two years. Initially the members shall be appointed as follows: three members shall be appointed for a term of two years; two members shall be appointed for a term of one year. Members may be reappointed to successive terms. In the event of a vacancy during the term of any member, the Mayor shall appoint a successor to serve the unexpired portion of that term. Members shall hold over in their terms until a successor is appointed.

(d) Officers and Meetings. The Commission shall conduct public meetings a minimum of six times each year. The Commission may call additional meetings as needed. At the first meeting of the Commission, one member shall be selected as chairperson, another as vice chairperson, and another as secretary who shall serve for a term of one year. The chairperson shall have the responsibility of calling the meetings and preparing the agenda.

(1) A simple majority of the appointed members shall constitute a quorum for the transaction of business. Any member who is absent for three unexcused consecutive meetings without just cause shall be removed from the Commission and the Mayor shall appoint a new member to serve the unexpired term, subject to the approval of Council.

(2) The Commission shall keep minutes of its meetings in conjunction with a City administrative assistant, a copy of which shall be kept on file in the office of Canton City Council. All plans, findings, reports and recommendations of the Commission shall be in writing and shall designate thereon the names of the members concurring therein.

(e) Tree Commission Duties.

(1) Provide an incremental inventory, as resources allow, of the location of public trees and determine areas where appropriate trees could exist but are absent.

(2) Study, investigate, and develop a written plan of standards for caring, preserving, pruning, replanting, removing or disposing of trees and shrubs along public streets, parks and other public areas for recommendation to City Council;

(3) Establish a suggested and prohibited species list for the City and recommend to the City the types and kinds of trees to be planted on City property;

(4) Identify trees for immediate removal;

(5) Disseminate educational information regarding the selection, planting and maintenance of trees within the City to the public;

(6) Solicit grants or contributions and volunteers on behalf of the City for use in an inventory, enhancing the City's tree plan and educating the public;

(7) Provide Council with a yearly estimate of personnel costs and the cost of nursery stock to be used; and

(8) Provide technical advice and assistance to developers, builders, contractors, subcontractors and others in the selection, replacement and protection of naturally occurring trees, prior to the development of any construction sites.

(f) Tree Plan. The documents and plans created pursuant to Paragraph (e) will be presented biennially to Council, and upon their acceptance and approval shall constitute the official comprehensive biennial tree plan for the City.

(Ord. 50-2012. Passed 4-9-12.)

917.04 PERMIT TO PLANT TREES IN CITY RIGHT OF WAY REQUIRED; FEE.

An adjacent property owner to a City right of way desiring to plant or replace a tree along a street in the right of way shall file an application and plan with the Director of Public Service and/or Engineering Department. The Director of Public Service and/or Engineering Department, in consultation with the City Arborist, shall cause an inspection to be made of the location of the trees proposed to be planted by the applicant and, if satisfied

with the proposed location of such trees is feasible and in accordance with the City's Plan therefore, shall issue to the applicant, at a cost of five dollars (\$5.00), a permit granting the applicant authority to plant such trees and to do all the construction and other work incidental thereto. The holder of such permit shall conduct such work in accordance with the plans and specifications on file in the office of the Director of Public Service and/or Engineering Department and under his general supervision. No planting shall be conducted in that area except in conformity with such plans and specifications and the terms of this section. The permit holder shall ascertain the location of utility easements and lines prior to planting. Said plans shall be in conformance with the distance requirements prescribed in Section 917.07(c). If the permit area involves a cityscape location that includes tree grates, the tree grates may not be handled by a property owner. They may only be handled by the tree planting contractor or City crews. If City crews are needed to remove and replace the tree grates, there will be an additional thirty-five dollar (\$35.00) charge per tree grate, in addition to the five dollar (\$5.00) permit fee, for the City to handle the tree grates. Tree species to be planted must be selected from the list of approved trees maintained in the City Arborist and approved for planting at the specific permit location. All trees must be planted in conformance with proper planting standards established by the City Arborist.

(Ord. 244-2013. Passed 12-16-13.)

917.05 TREES TO BE REMOVED AND/OR PRUNED ALONG PUBLIC WAYS.

(a) Each adjacent property owner on any public street, lane, alley or highway in the City shall remove or cause to be removed any dead trees or parts of trees which have become a nuisance or hazard to persons or property and which exist on such premises or in the tree lawn or grass strip existing between such premises and the edge of the adjoining street curbing or street surface where such trees, or the branches thereof, overhang or present a threat of damage to any portion of such street or adjoining sidewalk area. Further, each person who is the owner of or is an agent having the care of any premises abutting on any public street, lane, alley or highway, shall prune and keep pruned all trees growing on such premises or between the same and the edge of the curbing or edge of the street surface where branches of trees overhang any portion of such street or sidewalk. Such trees shall be pruned and kept pruned so that the lowest branch shall be at least twenty (20) feet above the pavement level of the part of such alley, street or highway, twenty (20) feet above state routes and twenty (20) feet above the sidewalk so overhung by such branches. When an entire tree is removed, the stump must also be removed and the ground restored.

(b) In the event the adjacent property owner neglects or refuses to remove dead trees or dead parts or branches of trees or prune or keep pruned the branches of any trees as provided in paragraph (a), the City may, after ten (10) days written notice to the owner or occupant of such abutting property, cause such trees or parts of trees to be removed or to be pruned as provided in paragraph (a). The notice may be served by certified mail addressed to the owner or occupant of such premises by mailing the same to the last known place of residence of such owner or occupant. All expenses effecting said removal pursuant to this section, including the costs of inspection, record search, notification and billing, so incurred by the city, shall be recorded by the Director of Public Service, or

designee, who shall mail a statement/invoice thereof to the owner of such land if a current address is known. If after thirty (30) days the amount remains unpaid, Council by ordinance shall certify the total amount of the expenses, the name of the owner of the land, and a sufficient description of the premises, to the County Auditor to be entered upon the tax duplicate to be lien upon such land from the date of entry, and to be as other taxes and assessments and returned to the appropriate fund.

(c) This section also applies to trees on unimproved public roadway rights of way where no actual roadway exists. The adjacent property owner's responsibility shall extend to the centerline of the right of way.

(d) This section also applies to the US 62 and US 30 right of way. The Director of Public Service or designee will work with adjacent owners to trim/remove trees in the right of way at the property owner's cost.

(Ord. 165-2018. Passed 7-30-18.)

917.06 TREE REMOVAL AND/OR PRUNING ON PRIVATE PROPERTY.

(a) The City shall have the discretionary right to cause the removal of any trees on private property within the City, when such trees are found to constitute a hazard to life and City property outside of said property, or harbor insects or disease which constitutes a potential threat to other trees within the City. The Director of Public Service and/or Engineering Department will notify in writing the owners of such trees. Removal shall be done by said owners or at their own expense within thirty (30) days after the date of the service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice should the owner fail to pay said cost. The Director of Public Service and/or Engineering Department is authorized to enter into a repayment plan if the surrounding circumstances merit such discretion.

(b) In the event the adjacent property owner neglects or refuses to remove hazardous, or diseased trees or dead parts or branches of trees or prune or keep pruned the branches of any trees as provided in paragraph (a), the City may, after ten (10) days written notice to the owner or occupant of such abutting property, cause such trees or parts of trees to be removed or to be pruned as provided in paragraph (a). All expenses effecting said removal pursuant to this section, including the costs of inspection, record search, notification and billing, so incurred by the city, shall be recorded by the Director of Public Service, or designee, who shall mail a statement/invoice thereof to the owner of such land if a current address is known. If after thirty (30) days the amount remains unpaid, Council by ordinance shall certify the total amount of the expenses, the name of the owner of the land, and a sufficient description of the premises, to the County Auditor to be entered upon the tax duplicate to be lien upon such land from the date of entry, and to be as other taxes and assessments and returned to the appropriate fund. The notice may be served by certified mail addressed to the owner or occupant of such premises by mailing the same to the last known place of residence of such owner or occupant.

(Ord. 165-2018. Passed 7-30-18.)

917.07 TREE PLANTING, SPACING AND DISTANCES.

(a) The Tree Commission and/or Director of Public Service or designee shall develop and maintain a list of appropriate, allowable trees to be planted along streets in three size classes based upon mature height: small (under 15 feet); medium (15 to 40 feet); and large trees (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species in each size class. A list of trees not suitable for planting in general or near utility lines will also be created by the Tree Commission and/or Director of Public Service or designee in consultation with arborists and affected entities.

(b) The minimum spacing of street trees will be in accordance with the tree size classes listed in paragraph (a), and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees 35 feet; except in special plantings approved by the Tree Commission and/or Director of Public Service or designee.

(c) The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the tree size classes listed in paragraph (a), and no trees may be planted closer than three (3) feet to the road face of any curb or within 2.5 feet of a sidewalk for small trees. Larger trees will require larger spacing as determined by the Director of Public Service or designee. These distance requirements may be extended out up to twenty (20) feet where overhead utility lines are present pursuant to the guidelines of the Tree Commission and/or Director of Public Service or designee.

(d) No street tree shall be planted within thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted nearer than ten (10) feet to any fire hydrant or water shut-off valve.

(e) No tree shall be planted in the area known as a tree lawn or devil strip that is smaller than five (5) feet in width.

(f) A waiver may be requested from the Director of Public Service regarding (a) through (e) of this Section. The Director will confer with staff professionals and render a decision. (Ord. 165-2018. Passed 7-30-18.)

917.08 TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm, or city department to top any City tree, park trees, or other tree on public property. Topping is defined in Section 917.02(e). Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section pursuant to the determination of the Director of Public Service or designee. The Director of Public Service or designee will serve as a liaison during emergencies. The unlawful topping of a covered tree shall result in a fine of \$150.00, plus tree and stump removal expenses, plus the replacement of said tree with three (3) new trees. Tree spacing and location of the three (3) replacement trees are to be determined by the Director of Public Service or designee.

(Ord. 165-2018. Passed 7-30-18.)

917.09 LICENSE TO CUT, REMOVE, TREAT OR PRUNE TREES WITHIN THE CITY LIMITS REQUIRED; FEE.

(a) No person, firm or corporation shall engage in the business of cutting, pruning, treating or removing trees within the City until: (1) the Director of Public Service and/or Engineering Department is satisfied of the applicant's knowledge and ability to treat, prune, cut or remove trees and that the applicant's knowledge and experience indicate that he or she is capable of removing trees without endangering persons or property as demonstrated by International Society of Arboriculture (ISA)-certification and adherence to the most current American National Standards Institute (ANSI) Standards; (2) the person, firm, or corporation has been issued a valid license by the City of Canton.

(b) Any person, firm or corporation who applies for a license that runs for a calendar year must register at the office of Canton City Engineering at 2436 - 30th Street N.E., Canton, Ohio 44705. An applicant who has demonstrated his or her fitness and ability, is equipped with proper tools and equipment (OSHA standards) to perform tree work, and furnishes references to the satisfaction of the Director of Public Service and/or Engineering Department shall be issued a license. The license may be revoked for cause by the Director of Public Service and/or Engineering Department when proper tree care practice has been violated or for failure to comply with any provision of this chapter.

(c) Employees of the City or the Canton Park Commission are exempted from this section while performing city duties, provided they have been trained to the satisfaction of the Director of Public Service and/or Engineering Department.

(d) Any person, firm or corporation who applies to the City for a license and who is in arrears on City of Canton income tax or other City loan repayments shall be denied a license.

(e) License Fee. The fee to obtain an annual license for cutting, treating, pruning, or removing trees is one hundred dollars (\$100.00)

(f) Bond and Insurance. Before proceeding with any tree works, each applicant shall deposit with the Engineering Department, or a designee, the following:

- (1) A performance bond in the amount of five thousand dollars (\$5,000);
- (2) A certificate of insurance, showing that the applicant is covered with liability and property damage insurance in the minimum amounts of five hundred thousand dollars (\$500,000) for liability, two hundred fifty thousand dollars (\$250,000) for property damage; and
- (3) Evidence of Worker's Compensation Coverage; and
- (4) Evidence of current Certified Arborist accreditation, with a copy of the ISA certified arborist identification number on file.

(g) List of Licensed Contractors. A list of licensed contractors shall be available to the public.

(h) Any person or entity that cuts, prunes or removes trees in such a manner that a public street shall be blocked off shall notify the offices of the Directors of Public Service and Safety and/or Engineering Department at least one business day in advance of the cutting, or as soon as practicable when bona-fide emergency circumstances exist.

(i) Any person who has been denied a license or has had a license revoked under this section may appeal the adverse decision to the city of Canton License Appeals Board pursuant to Chapter 149 of the Codified Ordinances of the city of Canton.

(Ord. 165-2018. Passed 7-30-18.)

917.10 ENFORCEMENT.

The provisions of this chapter may be enforced by the Engineering Department and/or Director of Public Service, the Park Commission and any and all other designated City officials and/or law enforcement officers.

(Ord. 244-2013. Passed 12-16-13.)

917.11 APPEALS TO THE DIRECTOR OF PUBLIC SERVICE.

(a) Except as otherwise specifically provided under this chapter, where this chapter has provided for an appeal by way of hearing, any person adversely affected by an action taken or decision or order made pursuant to this chapter shall file a Notice of Appeal with the Director of Public Service within ten (10) days of said action. A Notice of Appeal shall include as a minimum: the name, address and telephone number of the appellant; the date; a statement of intent to appeal; a statement of the nature of the appeal, and the date and description of the action or order appealed from. All filings required herein shall be made at the office of the Director of Public Service. Except as otherwise provided by this chapter, the Director of Public Service shall convene a hearing on the matter within thirty (30) days of receipt of the Notice of Appeal.

(b) The Director of Public Service may grant a continuance as he or she deems necessary. The Director of Public Service shall issue a written decision upon the appeal within ten (10) days of the hearing. The Director of Public Service may affirm, modify or rescind any action or proposed action which was the subject matter of the hearing. Any person who fails to timely file a Notice of Appeal or to otherwise prosecute an appeal of an action pursuant to this section, shall be deemed to have agreed to the action taken.

(Ord. 165-2018. Passed 7-30-18.)

917.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred fifty dollars (\$150.00). Each day the violation continues shall be considered a separate offense.

(Ord. 50-2012. Passed 4-9-12.)