

THE BUCKEYE LAKE TREE ORDINANCE

ORDINANCE Number: 2009-17

SECTION 1: PURPOSE

It is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of all trees, plants and shrubs located within street or rights of way, parks and other public areas of the Village of Buckeye Lake, Ohio. This ordinance shall hereinafter be referred to as the Village Tree Ordinance.

Be it adopted by the Council of the Village of Buckeye Lake, State of Ohio, and two-thirds of all members elected thereto concurring:

SECTION 2: CREATION AND ESTABLISHMENT OF A VILLAGE TREE AND LANDSCAPE COMMISSION

There is hereby created and establish a Village Tree and Landscape Commission for the Village of Buckeye Lake, which shall consist of not less than five (5) members, citizens and residents of the Village, whereby two (2) shall be appointed by the Mayor and three (3) shall be appointed by Council, with the approval of all members of the Village Council. Members of the commission shall serve without compensation.

SECTION 3: TERM OF OFFICE

The term of the five (5) persons to be appointed by the Council shall be three years, except that the term of two (2) of the members appointed to the first commission shall be for only one year and the term of two (2) members of the first commission shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

SECTION 4: DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Commission to study, investigate, council, and develop and/or update annually, and administer a written plan for the care, preservation, and pruning, planning replanting, removal or disposition of the trees, plants and shrubs, along street or rights of way, parks and in other public areas. Such plan will be presented annually to the Council and upon their approval shall constitute the official comprehensive village tree plan for the Village of Buckeye Lake. The Commission, when requested by the Village Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

SECTION 5: OPERATION

The Commission shall meet, at least six times a year and as needed, conduct special meetings. The Commission shall select its own officers; establish its own rules and regulations and keep, as a matter of record, minutes of its business and proceedings.

SECTION 6: APPLICABILITY

This ordinance provides full power and authority over all trees, plants and shrubs located within street or rights-of-way, parks and public places of the Village; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

SECTION 7: DEFINITIONS

Person: "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

Property Line: "Property Line" means the outer edge of a street or highway.

Property Owner: "Property Owner" means the person owning such property as shown by the County Auditor's Plat of the Village of Buckeye Lake, Licking County, Ohio.

Pruning: "Pruning" means to cut branches, stems, etc. from a plant to improve shape and/or growth.

Public Places: "Public Places" includes all grounds owned by the Village of Buckeye Lake.

Public Trees: "Public Trees" includes all shade and ornamental trees now or hereafter growing on any street, rights of way or any public place.

Shrub: "Shrub" means a low-growing woody plant with one or more perennial main stems producing branches, shoots, or multiple stems from or near the base of the plant and incapable of being pruned to provide at least six feet of clear branchless trunk within five years of planting.

Small Tree: "Small Tree" means any tree species which normally attains a full grown height under thirty feet.

Medium Tree: "Medium Tree" means any tree species which normally attains a full-grown height between thirty and fifty feet.

Large Tree: "Large Tree" means any tree species which normally attains a full grown height over fifty feet.

Park Tree: "Park Trees" are trees, shrubs, and all other woody vegetation in public parks and all areas owned by the Village of Buckeye Lake, Ohio, or to which the public has free access as a park.

Street or Highway: "Street or Highway" means the entire width of every public way, easement or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic, and shall include alleys.

Street Trees: "Street Trees" are trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, rights of way or easements, avenues, or are within the Village of Buckeye Lake.

Topping: "Topping" means 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.

Tree: "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base: capable of being pruned to provide at least six feet of clear branchless trunk below the crown within five years of planting.

Tree Lawn: "Tree lawn" means that part of a street or highway right-of-way outside of the portion improved for travel, including the sidewalk and lawn area between the sidewalk and contiguous street or highway.

SECTION 8: ARBORIST LICENSE AND BOND

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street rights-of-way, park or public places trees within the Village without first applying for and procuring a permit from the Village of Buckeye Lake. The permit shall be \$25.00 in advance; provided however, that no permit shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$1,000,000.00 for property damage and \$100,000.00 bodily injury indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

SECTION 9: LANDSCAPING

All new subdivisions or commercial development will be required to have a landscaping plan. In new subdivisions or when the development of commercial property occurs, the Village Tree and Landscape Commission shall review the landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

SECTION 10: TREE PLANTING

- A. The recommended list of Public tree species for the Village of Buckeye Lake, State of Ohio is available through the Buckeye Lake Tree and Landscape Commission and posted in the Village office. No species other than those in the list may be planted as street trees or park trees without written permission of the Village Tree and Landscape Commission.
- B. The spacing of new trees shall follow the following regulations: sixty (60) feet between large trees, forty (40) ft. between medium trees, twenty (20) ft. between small trees.
- C. The following minimum width of tree lawns should be followed for tree plantings: eight (10) ft. for large trees, six (6) ft. for medium trees, and four (4) ft. for small trees. Only small trees can be planted under overhead utilities. All trees should be planted a minimum of ten (10) ft. from all signs, utility poles, driveways and fire hydrants. All new trees should be planted a minimum of thirty (30) ft. from all intersections.

- D. Only small trees will be allowed to be planted under utility lines provided that when the tree is fully grown it does not obstruct, impede, or interfere with the lines

SECTION 11: TREE MAINTENANCE AND REMOVAL

- A. **PUBLIC TREE CARE:** The Village 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. The Village Tree and Landscape Commission may make recommendation to Council to 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 8 through 10 of this ordinance. Pruning or removing of public trees should be done according to the American National Standard Institute (ANSI) A300 Best Management Practices companion ISA publication and in accordance with the National Nurserymen Standards for planting guidelines. A copy of this can be found in the Village office.
- B. **TOPPING PUBLIC AND PRIVATE:** It shall be unlawful, as a normal practice, for any person, firm, or Village department to top any street tree, park tree, or other tree on public property without prior approval from the Village Tree and Landscape Commission. 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. Crown reduction by a qualified arborist may be substituted, where appropriate. 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 Village Tree and Landscape Commission.
- C. **PRUNING, CORNER CLEARANCE:** Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not severely 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 thirteen feet (13') above street surface or eight feet (8') above the sidewalk surface. 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 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 or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and Village Tree and Landscape Commission prior to any trimming by the utility company.

- D. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY:** Trees, shrubs, plants, or plant parts which are dead or diseased, obstructs street lights, traffic signs, the free passage of pedestrians or vehicles or when such trees pose a hazard to life and property, or harbor insects or disease which potentially threaten other trees within the Village constitutes cause for removal. The Village Tree and Landscape Commission will notify in writing the property owner of such trees, shrubs, plants, or plant parts needed to be removed. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees, shrubs, plants or plant parts and charge the cost of removal on the owner's property tax notice.
- E. 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.
- F. HARMING OF PUBLIC TREES:** It shall be a violation of the provisions of this Ordinance for any person to abuse, destroy or mutilate any tree, plant or shrub in a public parking strip or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with their roots, trunks, or leaves.

SECTION 12: ADJACENT LANDOWNER RESPONSIBILITY

- A. No person shall make any excavation, place any fill, compact the soil, or construct any building, structure, street, sidewalk, driveway, pavement, or public utility within 15 feet of any public tree without first obtaining a permit for such work in accordance with such permit. Permits can be obtained through the Village of Buckeye Lake.
- B. No person shall plant, remove, cut above ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the Village of Buckeye Lake. The person receiving the permit shall abide by the standards set forth in this ordinance.

SECTION 13: OBSTRUCTION WITH THE VILLAGE TREE COMMISSION

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree and Landscape Commission or any of its agents, while engaging in and about planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

SECTION 14: REVIEW BY THE VILLAGE COUNCIL

The Village Council will have the right to review the conduct, acts and decisions of the Village Tree and Landscape Commission. Any person may appeal any ruling or order of the Village Tree and Landscape Commission to the Village of Buckeye Lake Council who

may hear the matter and make the final decision.

SECTION 15: PENALTY

A person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to provision of this Ordinance, upon being found guilty of the violation, shall be subject to a fine of not less than \$100.00 and not more than \$1000.00. Each day during which any violation of the provisions of the Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation or death of a tree, shrub or other plant located on Village-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant, shall be borne by the party in violation.

SECTION 16: DECLARATION

This Ordinance is hereby declared necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the Village of Buckeye Lake, Ohio, and for the further reason that it is necessary in order to promote and protect the public health, safety and welfare by providing for the regulation of planting, maintenance and removal of trees, shrubs and other plants within the Village.

Wherefore, this Ordinance shall take effect and be in force from and after its passage and approval by the Village of Buckeye Lake Council.

Passed: MAY 26, 2009

Date Signed by Mayor: MAY 26, 2009

Witness:


Charlene Hayden, President of Council


Frank Foster, Mayor