

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

2017-07

November 21

17

Ordinance No. _____

Passed _____, 20_____

AN ORDINANCE AMENDING SECTIONS 503.05 THROUGH 503.08 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO TO REGULATE TREES AND SHRUBS IN OR ADJACENT TO THE PUBLIC RIGHT OF WAY.

WHEREAS, the regulation of trees and shrubs in or adjacent to the public right of way is important for public safety and to protect public infrastructure located within the right of way.

WHEREAS, the Planning Commission and City Council desire to amend Sections 503.05 through 503.08 of the Code of Ordinances which regulates trees and shrubs in or adjacent to the public right of way; and

WHEREAS, after public hearing on this Ordinance, and upon recommendation of the Planning Commission, Council hereby adopts this Ordinance to amend regulations of trees and shrubs in or adjacent to the public right of way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: Sections 503.05, 503.06, 503.07 and 503.08 of the Code of Ordinances regulating trees and shrubs in the public right of way are hereby amended. The amended Sections 503.05, 503.06, 503.07 and 503.08 are set forth in Exhibit "A" attached hereto and incorporated herein by reference, and hereby approved.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION III: This Ordinance shall take effect thirty (30) days after passage by the Council of the

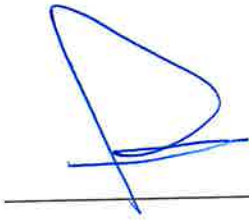
City of Brookville as provided by the Charter of the City of Brookville.

PASSED this 21st day of November 2017.

ATTEST:



Meghan Wheeler, Clerk



David E. Seagraves, Mayor

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CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2017-07, passed by the Council of the City of Brookville, Ohio, on the 21st day of November 2017.



Meghan Wheeler, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2017-07 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 29th day of November 2017, to the 29th day of December 2017, both days inclusive.



Meghan Wheeler, Clerk

EXHIBIT "A"

TREES AND SHRUBS

503.05 TREES AND SHRUBS

Trees and shrubs regulated in this chapter include any trees or shrubs located in or adjacent to the public right of way.

503.06 OVERHANGING TREES AND SHRUBS

The owner of each lot or parcel of land within the City upon which a tree or shrub stands with any part of the tree or shrub being within the public right of way or overhanging the public right of way shall conform to the following regulations shall conform to the following regulations:

(a) The owner shall trim or cause to be trimmed any tree or shrub so that it shall not obstruct the free passage of light from any street light to the immediately subjacent street, sidewalk or public thoroughfare.

(b) The owner shall trim or caused to be trimmed the tree or shrub, so that a clear height of thirteen and one-half feet between its lowest branches and the street, alley or public thoroughfare is maintained. Trees and Shrubs overhanging sidewalks shall be trimmed so as not to obstruct normal passage on sidewalks.

(c) The owner shall trim or remove, as the case may require, every dead, decayed, or broken tree or shrub or part thereof, so that it shall not fall to the street, alley, sidewalk, or public thoroughfare.

503.07 RIGHT TO TRIM OR REMOVE TREES AND SHRUBS FROM PUBLIC RIGHT OF WAY

(a) The City shall have the right to cause any tree or shrub standing in violation of this chapter to be trimmed or removed as determined by the Property Maintenance Officer. The Property Maintenance Officer shall notify the property owner that a tree or shrub is in violation of this chapter. The owner shall have thirty (30) days from the date they receive the notice from the Property Maintenance Officer requiring the trimming or removal of a tree or shrub to complete the trimming or removal of the tree or shrub as required by the notice. In the event the owner fails to comply with the order of the Property Maintenance Officer, then the City may cause the tree or shrub to be trimmed or removed, and the City may assess the costs of that trimming or removal to the property owner and certify those costs to the County Auditor and Treasurer as a special assessment on the property.

(b) In the event a tree or shrub has fallen into the public right of way, the City shall have the right to immediately remove said tree or shrub from the public right of way, and assess any costs related to said removal to the property owner and certify those costs to the County Auditor and Treasurer as a special assessment on the property.

503.08 PLANTING OF TREES AND SHRUBS IN THE PUBLIC RIGHT OF WAY

(a) No person shall plant any tree or shrub within the public right of way without first having obtained a permit therefor, as hereinafter provided.

(b) Any person desiring to plant any tree or shrub within the public right of way shall apply to the City Manager for a permit to plant a tree or shrub. The form of the application shall be prescribed by the City Manager and shall include the name and address of the person making application, the name and address of the owner of the property adjoining the public right of way in which the tree or shrub is to be planted, if not the applicant, the location of the proposed planting and the size and variety of materials to be planted.

(c) The City Manager shall only issue permits for the planting of trees and shrubs in public rights of way when he or she has determined that such proposed plantings are in conformity with applicable regulations as to the location, size and variety of materials planted, including limitations on the variety of material planted, imposed pursuant to the standards for planting adopted under 503.08(d).

(d) The City Manager shall propose standards for planting trees and shrubs in the public right of way, and City Council shall review and approve those standards and any amendments to those standards. The standards for planting trees and shrubs shall designate the number, location, size, variety and condition of trees and shrubs to be planted and planting methods. The standards shall take into account the relative hardiness, shape, root growth pattern, beauty and undesirable features of trees and shrubs and shall provide restrictions on plantings in locations likely to damage underground or aerial utility facilities, restrict motorists' or pedestrians' sight distance, conflict with driveways, sidewalks, bikeways or streets; or damage street, sidewalk, storm sewer, curb and gutter or other public facility structures. The standards may completely prohibit plantings in public rights of way where the distance between the curb and sidewalk is insufficient to permit any planting of trees or shrubs.

(e) Any trees or shrubs planted in the public right of way after the adoption of this Ordinance without a permit shall be subject to removal by the City. The Property Maintenance Officer shall notify the property owner that a tree or shrub has been planted in violation of this provision. The owner shall have thirty (30) days from the date they receive notice from the Property Maintenance Officer to remove the tree or shrub from the public right of way. In the event the owner fails to comply with the order of the Property Maintenance Officer, then the City may cause the removal of the tree or shrub and the City may assess the costs of that removal to the property owner and certify those costs to the County Auditor and Treasurer as a special assessment on the property.