

ORDINANCE NO. 05-52

**AN ORDINANCE AMENDING THE SHADE TREE ORDINANCE
OF THE VILLAGE OF VERSAILLES, OHIO**

WHEREAS, the Village of Versailles heretofore determined it was in the best interest of the inhabitants of the Village of Versailles to enact legislation for the regulation of the planting, maintenance, and removal of trees in the public streets and rights-of-way, parkways, and other Village-owned properties, as the same is set forth in Ordinance No. 94-51, commonly known as the Shade Tree Ordinance for the Village of Versailles; and

WHEREAS, it was later determined by the Council of the Village of Versailles to supplement and amend the Village Shade Tree Ordinance to provide for regulations for the description, care, and prohibitions concerning Monarch Trees, pursuant to Ordinance No. 01-43; and

WHEREAS, the Village of Versailles Shade Tree Commission has recommended certain amendments to be made to the Village's Shade Tree Ordinance currently in effect; and

WHEREAS, the Council of the Village of Versailles has reviewed and approved the proposed recommendations of the Shade Tree Commission.

NOW, THEREFORE, BE IT ORDAINED, by the Village of Versailles, State of Ohio, as follows:

SECTION ONE: That the Shade Tree Ordinance for the Village of Versailles be amended as set forth in Exhibit A.

SECTION TWO: That said Shade Tree Ordinance, set forth in Exhibit A, cancel and supersede from its effective date all preceding ordinances; specifically Ordinance No. 94-51 and Ordinance No. 01-43, pertaining to the regulations for the planting, maintenance, and removal of trees in the public streets and rights-of-way.

SECTION THREE: That this ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED, this 27th day of December 2005.

Jeffry A. Subler
Mayor

ATTEST:

Mary Ann Gump
Fiscal Officer

APPROVED AS TO FORM:

Thomas L. Guillozet
Village Attorney

EXHIBIT A

ORDINANCE NO. 94-51 (Revised Ordinance No. 01-43, 12-10-01) (Revised Ordinance No. 05-52, 12-27-05)

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN THE PUBLIC STREETS AND RIGHT-OF-WAYS, PARKWAYS, AND OTHER VILLAGE OWNED PROPERTY; ESTABLISHING A SHADE TREE COMMISSION AS THE AGENCY PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES IN PUBLIC PLACES; AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF VERSAILLES, COUNTY OF DARKE, STATE OF OHIO:

SECTION I. This Ordinance shall be known and may be cited as the Shade Tree Ordinance of the Village of Versailles, Ohio.

SECTION II. For the purpose of this Ordinance, the following terms, phrases, words, and their deviation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word SHALL is mandatory and not merely directory.

- A. Village: is the incorporated Village of Versailles, Ohio.
- B. Person: is any person, firm, partnership, association, corporation, company, or organization of any kind.
- C. Street or Highway: means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- D. Park: shall include all public parks.
- E. Public Places: shall include all other grounds owned by the Village of Versailles, Ohio.
- F. Property Line: shall mean the legal boundary line.
- G. Lawn Strip or Curb Strip: is that part of a street or highway right-of-way outside of the portion improved for travel, including the sidewalk.
- H. Public Trees: shall include all shade and ornamental trees, now or hereafter growing on any street, including lawn strip, or on any other public lands.
- I. Large Trees: are designated as those attaining a height of forty-five (45) feet or more.
- J. Medium Trees: are designated as those attaining a height of thirty (30) to forty-five (45) feet.
- K. Small Trees: are designated as those attaining twenty (20) to thirty (30) feet.

- L. D.B.H.: in forestry, diameter at breast height.
- M. Property Owner: shall mean the person owning such property as shown by the County Auditor's Plat of Darke County, State of Ohio.
- N. Shade or Ornamental Tree or Shrub: shall mean any and all woody vegetation.
- O. Dripline: shall mean the approximately circular vertical extension to the ground of the outer most branches and leaves of the tree as an indication of the spread of the root system.
- P. Street Trees: shall mean trees, shrubs, bushes, and all other woody vegetation on land lying between right-of-way lines of either side of all streets, avenues, or ways within the Village of Versailles.
- Q. Park Trees: shall mean trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village, or to which the public has free access as a park.
- R. Tree Topping: shall mean 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.
- S. Monarch Tree: shall be defined as a tree that has been determined by the Tree Commission and the Village Council to be of high value because of its size, age, form, historical significance, or some professional criteria.

SECTION III. ESTABLISHMENT OF A SHADE TREE COMMISSION

- A. There shall be created a commission to be known and designated as "Shade Tree Commission" which shall consist of five (5) members of the Village of Versailles, Ohio. Three (3) members shall be citizens and residents of the Village who shall be appointed by the Mayor with the approval of Council. The fourth member shall be a council member of the Village of Versailles. The fifth member shall be the Village Administrator.

The term of the three (3) persons of the Shade Tree Commission to be appointed by the Mayor shall have terms for three (3) years, except the term of members appointed to the first Commission shall be as follows: One (1) member for three (3) years, one (1) member for two (2) years, and one (1) member for one (1) year. 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 said term.

- B. Compensation: members of the Shade Tree Commission shall serve without compensation, but shall be entitled to reimbursement for any and all necessary expenditures in carrying out the function of the Commission.
- C. The duties of said "Shade Tree Commission" shall be as follows:
 - 1. To study the problems and determine the needs of the Village of Versailles, Ohio, in connection with its tree planting program.
 - 2. To recommend to the proper authority, the type and kind of trees to be planted upon such Village streets or parts of Village streets or in parks as is designated.

3. To assist the properly constituted officials of the Village of Versailles, Ohio, as well as the Council and citizens of the Village in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits on public property, and to make such recommendations from time to time to the Village Council as to desirable legislation concerning the tree program and activities for the Municipality.
 4. To provide regular and special meetings at which the subject of trees insofar as it relates to the Municipality may be discussed.
- D. That within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the Mayor, said Commission shall meet and organize by the election of a chairman and the appointment of a secretary. The said Commission shall then provide for the adoption of rules and procedures and for holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

SECTION IV. AUTHORITY OF THE SHADE TREE COMMISSION

- A. The Shade Tree Commission shall have the authority to promulgate the rules and regulation of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the Village, and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or here after in any public area of the Village of Versailles, Ohio. The Commission shall cause the provision of the Ordinance to be enforced.
- B. The Shade Tree Commission shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees and other publicly owned property to insure safety or preserve the aesthetics of such public sites, in accordance with the permit system contained in the terms of this ordinance.
- C. Supervision: The Shade Tree Commission shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this ordinance.
- D. Condition of Permit: The Shade Tree Commission shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this ordinance.
- E. Master Street Tree Plan: The Shade Tree Commission shall have the authority to formulate a Master Street Tree Plan. The Master Street Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the Municipality. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.
1. The Shade Tree Commission shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the Village.
 2. Amend - The Shade Tree Commission shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.

SECTION V. PERMITS REQUIRED

- A. Planting, Maintenance, or Removal
1. No person shall plant, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any Village-owned property without first filing an application and procuring a permit from a specified Village authority. The person receiving the permit shall abide by the Arboricultural Specifications and Standards of Practice adopted by the Shade Tree Commission

Ordinance No. 94-51 Page 4

2. Application for permits must be made at the offices of the Village of Versailles or from a designated member of the Shade Tree Commission.
3. Standards of Issuance: The Shade Tree Commission shall issue permits provided for herein if, in their judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
4. Notice of completion shall be given within five (5) days to the Shade Tree Commission for an inspection.

B. Planting

1. Application Data: The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar, or variety of each tree; the method of planting; and such other information as the Shade Tree Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.
2. Improper Planting: Whenever any tree shall be planted or set out in conflict with the provisions of this Section, it shall be lawful for the Shade Tree Commission to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

C. Maintenance

1. Application Data: The application required herein shall state the number and kinds of trees to be sprayed, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Shade Tree Commission shall find reasonably necessary to a fair determination of whether a permit should be issued.

D. Removal, Replanting and Replacement

1. Wherever it is necessary to remove a tree or trees from a lawn strip in connection with the construction or replacement of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. Provided that conditions prevent planting on lawn strips, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications, are planted in an attractive manner on the adjoining property.
2. No person or property owner shall remove a tree from the lawn strip for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Shade Tree Commission, and without replacing the removed tree or trees in accordance with the adopted Arboricultural Specifications. Such replacement shall meet the standards or size, and placement as provided for in a permit issued by the Shade Tree Commission. The person or property owner shall bear the cost of removal and replacement of all trees removed subject to the Village's Tree Removal/Replacement Guidelines. The costs associated with planting a replacement tree within the right-of-way shall be paid for by the Village of Versailles

SECTION VI. TREE REPLACEMENT

- A. Eligibility for having a tree replaced with help by the Village should be restricted to only those situations where such trees were removed due to a Village-mandated street or new sidewalk installation project; where a property owner has removed a tree or trees that has caused damage to the sidewalk and will be replacing said damaged or deteriorated sidewalk pursuant to the Village's Sidewalk Specifications; and where the Tree Commission has approved the removal of a tree within the right-of-way.
- B. Replacement trees must be planted within 15 feet of the edge of the respective street where the original tree was located.
- C. Any such replacement tree must be a type acceptable to the Village, as indicated on the attached list. Under special circumstances a tree not listed may be planted, upon evidence given that such tree will not create problems to any Village improvement at the time such tree reaches its greatest height/crown spread.
- D. Such tree to be eligible for such replanting must have at least a 1 3/4-inch diameter trunk size, and be professionally planted by a reputable nurseryman.
- E. Location of planting:
 - 1. Should not be closer than:
Large Trees - 25 ft. to other trees
Medium Trees - 20 ft. to other trees
Small Trees - 15 ft. to other trees
 - 2. Should not be closer than 6 feet to any water or sewer line, shut off valve, or meter pit.
 - 3. Should not be closer than 25 feet to any street corner.
 - 4. Should not be planted in any area where the tree at its full height may interfere with any aerial electric or telephone lines, UNLESS THE RESPECTIVE PROPERTY OWNER ENTERS INTO A WRITTEN AGREEMENT TO BE RESPONSIBLE FOR HAVING THE BRANCHES TRIMMED OUT OF THE WAY OF SUCH AERIAL LINES, WHEN NECESSARY.
- F. The Village shall participate in the payment of such tree or trees of an amount up to \$250.00 (including planting fee). The benefitting property owner shall be responsible for paying the difference; if applicable...and for seeing to it that the tree is properly maintained from then on.
- G. Unless approved by the Tree Commission, the number of replacement trees so eligible for Village participation shall not exceed the number of trees removed along each property for such Village required street/sidewalk improvement project...subject to the number being reduced by the spacing and location restrictions of Paragraph E.
- H. A valid invoice must accompany each reimbursement request.
- I. Property owners must apply for replacement trees within one (1) year after the Village mandated street or sidewalk improvement.

SECTION VII. STREET TREES SPECIES TO BE PLANTED

The attached list constitutes the official street tree species for the Village of Versailles, State of Ohio. No species other than those included in the list may be planted as Street Trees without written permission of the Village's Tree Commission. This list shall be reviewed and updated annually by the Tree Commission.

SECTION VIII. SPACING

The spacing of the Street Trees will be in accordance with the three species size classes referred to in Section II of this Ordinance, and no trees may be planted closer together than the following: Small Trees - 15 feet; Medium Trees - 20 feet; and Large Trees - 25 feet, and no trees are to be planted closer than fifteen (15) feet to any public alley-way access; except in special plantings designed and approved by the Tree Commission.

SECTION IX. DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes referred in Section II of this Ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees - 1.0 foot; Medium Trees - 1.5 feet; and Large Trees - 2.0 feet except in special plantings designed or approved by the Tree Commission.

SECTION X. DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS

Except in special plantings designed or approved by the Tree Commission, no Street Tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 6 feet to any fire hydrant. No Street Tree shall be planted closer than 25 feet to any public street intersection as to cause an obstruction to vision of any street sign or approaching traffic.

SECTION XI. PUBLIC RIGHT-OF-WAY

No Street Tree shall be planted within any public right-of-way without an appropriately approved "Tree Planting Permit" issued by the Village within the past sixty (60) days.

SECTION XII. UTILITIES

Unless approval is granted by the Tree Commission, no Street Trees other than those species referred to as Small Trees in Section II of this ordinance may be planted under or within 6 lateral feet of any overhead utility wire, or over or within 6 lateral feet of any underground water line, sewer line, shut-off valve, meter pit, distribution line, or other utility. Unless the respective property owner enters into a written agreement to be responsible for having the branches trimmed out of the way of such aerial lines, when necessary, when trimming is necessary to keep branches out of these overhead wires, trimming shall be at the owner's expense.

SECTION XIII. PROHIBITED TREES

No type of Street Tree shall be planted that is prohibited by the Village due to problems of limb breakage, a tendency for the root system to clog sewers and drains, a tendency to attract insect pests, objectionable fruit toppings, a susceptibility to disease, a susceptibility to wind splintering, or problems of a surface root system breaking up concrete walks and curb sections located close in proximity. See attached Exhibit "A" for a list of Prohibited Trees. See attached Exhibit "B" for a Suggested Tree list.

SECTION XIV. 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 Commission 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 all applicable section within this Ordinance.

SECTION XV. TREE TOPPING

No person, firm, or Village Department shall top any Street Tree, Park Tree, or other tree on public property; except, however, that a person or firm, who holds a grant of right-of-way by easement or otherwise, or a Village Department may prune or top such trees which might interfere with or endanger the safe and efficient operation of a service provided by such person, firm, or Village Department. 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 Commission.

SECTION XVI. 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 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 sidewalk and a clear space of twelve feet (12') above that portion of a street outside the curb or that portion of a street or right-of-way subject to vehicular traffic. 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.

SECTION XVII. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, 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. The Village Tree Commission will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty 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 and charge the cost of removal on the owners property tax notice.

SECTION XVIII. REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground to facilitate landscaping.

SECTION XIX. OBSTRUCTION - TREES PRUNED

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks, and twelve (12) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

A. Notice to Prune

Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Shade Tree Commission shall order such person or persons, within three (3) days after receipt of a written notice, to so prune such trees.

B. Failure to Comply

When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Municipality to prune such trees, and the exact cost thereof be assessed to the owner as provided by law in the case of special assessments.

SECTION XX. ABUSE OR MUTILIZATION OF PUBLIC TREES

Unless specifically authorized by the Shade Tree Commission, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them; or set fire or permit any fire to burn which such fire or the heat thereof will injure any portion of any tree.

SECTION XXI. INTERFERENCE WITH THE SHADE TREE COMMISSION

No person shall hinder, prevent, delay, or interfere with the Shade Tree Commission while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.

SECTION XXII. PROTECTION OF TREES

All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or any distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., which ever is greater, and all building material, dirt or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Shade Tree Commission.

SECTION XXIII. PLACING MATERIALS ON PUBLIC PROPERTY

No person shall deposit, place, store, or maintain upon any public place of the Village, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the Shade Tree Commission.

SECTION XXIV. STREET TREE PLAN FOR NEW DEVELOPMENTS

That any new street developed in a subdivision by a private developer and dedicated to the Village shall have a street tree plan approved by the Tree Commission within the cooperation of the Street Committee and a bond posted, amount determined by the Shade Tree Commission with Council's approval for future installation of the plan. This requirement would be added to the list of subdivision regulations.

SECTION XXV. TREE LOTTERY GUIDELINES

- A. Interested property owners should complete a lottery form and return it to the Village Administrator's Office by April 1. (One form per property owner.)
- B. Eligibility to participate in the lottery process will be subject to the following restrictions:
 - 1. Only property owners living within the corporation limits will be eligible to participate in the lottery. Tenants are ineligible to participate.
 - 2. Property owners with nonexistent or deteriorated sidewalks (as defined in the Sidewalk Installation/Replacement Ordinance) will not be eligible to participate in the lottery.
 - 3. Property owners who fail to properly maintain either a replacement tree or lottery tree will not be eligible to participate in future lotteries.
 - 4. Property owners will not be eligible to receive a tree through the lottery process in two consecutive years.
 - 5. Property owners along a street that has been outlined in the Village's Five Year Capital Improvement Plan for reconstruction, will not be eligible to receive a tree through the lottery process.
- C. On or before April 30, the Tree Commission will randomly select fifteen recipients and two alternates.
- D. All lottery trees must be planted within the corporation limits.
- E. All trees are subject to the Village's tree planting restrictions and will require a planting permit (no charge).
- F. A maximum of fifteen trees will be awarded in any given year.
- G. All decisions made by the Tree Commission are final.

SECTION XXVI. MONARCH TREES

- A. The Village Council may designate any tree as a Monarch tree upon receiving a recommendation from the Tree Commission and determining that the tree is of exceptional value to the community because of unusual size, age, form, historical significance, or other demonstrable characteristic. Monarch trees may only be designated along public streets, right-of-ways, and publicly-owned property controlled by the Village.
- B. Care of Monarch trees and trees on public property:

The following protective techniques shall be followed during construction activity, which may impact the Monarch tree(s) on public property:

Ordinance No. 94-51 Page 10

1. Protect branch and trunk from equipment;
 - a. Fence vulnerable trees.
 - b. Move soil adjacent to trees by hand.
2. Prune carefully for vertical clearance;
 - a. Prune to minimum height required before construction.
 - b. Dress all significant pruning wounds.
3. Prevent injury from felling other trees;
 - a. Fell trees away from protected trees.
 - b. Use control cables if fall is not predictable.
4. Avoid root damage during stripping of organic surface soil;
 - a. Avoid stripping of soil around trees in critical root zone.
 - b. Cut wood vegetation around trees at ground level. Do not pull out by equipment.
5. Minimize root damage during excavation for foundations;
 - a. Excavate by hand near major roots.
 - b. Prune roots by cutting individually.
6. Avoid injurious soil compaction by keeping storage and traffic out of critical root zone;
7. Prevent spills or waste disposal of paint, oil, fuel, and other soil contaminants;
 - a. Prohibit disposal in critical root zone.
 - b. Require immediate clean up of accidental spills.
8. Control concrete washout;
 - a. Designate washout area away from trees.
 - b. Avoid runoff of washout to forested areas.
9. Control soil herbicides applied under sidewalk;
 - a. Use herbicide safe for use around trees.
 - b. Do not exceed recommended concentrations.

Ordinance No. 94-51 Page 11

10. Maintain surface drainage away from trees;
 - a. Where grades are modified, direct water away from trees.
 - b. Do not permit ponding in critical root zone.
11. Control trenching for utilities drainage;
 - a. Coordinate trench locations with installation contractors.
 - b. Consolidate utility trenches.
 - c. Curve trenches, if necessary.
 - d. Tunnel under roots larger than 1" in diameter when feasible.
12. Control grading in scalifying operations;
 - a. Excavate no more than 6" below finish grade.
 - b. Add topsoil to achieve finish grade.
13. Minimize thinning or removing of undergrowth;
 - a. Save clusters of trees when working with species which function poorly in the open or as singles.
 - b. As much as possible, save existing undergrowth.
14. Protect from damage;
 - a. Do not permit construction of recreational fires within 100' of protected trees.
 - b. Do not permit raising of buildings by fire if within 100' of protected trees.

C. Authorized Pruning or Trimming of Monarch Trees:

No person shall prune, trim or otherwise disturb any monarch tree along any public street, right-of-way, or on public property controlled by the Village without first filing an application and procuring a permit from the Tree Commission.

D. Abuse or Mutilation of Protected Monarch Trees:

The following abuse or mutilation of protected monarch trees shall be prohibited:

1. No person shall intentionally damage, cut, carve, or otherwise disfigure any monarch tree designated by the Tree Commission and Village Council other than as permitted by the arborcultural specifications and standards of practice adopted by the Tree Commission.
2. No person shall attach any rope, wire, nail, poster, or other contrivance to any tree, except that the Village Tree Commission may authorize the use of cables on a monarch tree if it is determined by the Tree Commission the use of cables would preserve the life of the monarch tree.

3. No person shall allow any substances harmful to vegetation to be improperly applied to any tree.
4. No person shall set fire to or permit a fire to burn in an area within 100' of any monarch tree.

SECTION XXVII. VIOLATION AND PENALTY

Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance shall be guilty of a minor misdemeanor and when convicted shall be fined for the first offense not more than One Hundred Dollars (\$100.00) and costs; and for the second offense within one (1) year, not more than Two Hundred and Fifty Dollars (\$250.00) and costs. In addition, the person shall replace the tree with a size and species recommended by the Tree Commission within sixty (60) days after the date of service of notice to replace is given by the Village Tree Commission. The cost of the removal, replacement tree, and planting expenses shall be paid by the person violating this ordinance. In the event of the failure of the person to comply with such provisions, the Village shall have the authority to replace the tree and charge all costs provided herein on the owner's property tax notice. Each tree affected by a violation of this ordinance shall constitute a separate offense.

SECTION XXVIII. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

SECTION XXIX. That the Clerk of the Village Council be and hereby is authorized and directed to cause publication of this ordinance to be made in a manner as provided for according to law.

PASSED the 22nd day of December, 1994.

REVISED the 10th day of December, 2001.

REVISED the 27th day of December, 2005.

Larry J. Subler
Mayor

ATTEST:

Mary Ann Reed
Clerk

APPROVED AS TO FORM:

Michael D. McClurg
Law Director

EXHIBIT "A"

PROHIBITED TREES

1. Apple Fruit objectionable on street; insect pests, disease-prone
2. Birch Susceptible to disease
3. Black Locust Insect pests
4. Box Elder Breakage & insect pests
5. Catalpa Coarse; insect pests
6. Moline Elm Breakage
7. Siberian Elm (Chinese Elm) Breakage
8. European Mountain Ash Susceptible to being blown over by wind
9. Evergreens Cause sever obstructions to vision of traffic and signs
10. Ginko (Female) Offensive smelling berries
11. Horse Chestnut Leaf blight; messy
12. Mulberry Fruit objectional on street
13. Poplars Breakage; insect pests, disease-prone; root system clogs
sewers & pipes
14. Silver Maple Breakage; root system clogs sewers & pipes
15. Tree of Heaven Coarse; breakage
16. Tulip Tree Insect pests; leaves drop during dry periods
17. Willows Breakage; insect & disease prone; root system clogs
sewers & pipes
18. ANY OTHER TYPE OF TREE HAVING SIMILAR PROBLEMS AS LISTED ABOVE

For species not specifically described as permitted or prohibited, verification as to its acceptability may be necessary. Such verification may be done by contracting a reputable plant nursery or by contacting the Ohio Department of Natural Resources, Division of Forestry, 777 Columbus Avenue, Lebanon, Ohio 45036. Telephone: (513) 932-6836.

EXHIBIT "B"

SUGGESTED TREE LIST

SMALL TREES

Less than 30 feet high at maturity; recommended planting strip should not be less than 2 feet wide.

Flowering Crabapples (Spring Snow, Centurion, Harvest Gold, Madonna, Velvet Pillar, Adirondack varieties)-abundant flowers in spring, small fruits in fall.

Goldenraintree-feathery, light green foliage. Large clusters of bright yellow flowers emerge in July.

Trident Maple-brilliant red fall color, compact head of small, shiny leaves.

Hedge Maple-small leaves, single trunk tree.

Leprechaun Ash - leaves turn yellow in the fall.

Pacific Sunset Maple - leaves turn orange-red in the fall.

Sargent Cherry - narrow tree, glossy dark green leaves, small black cherries

MEDIUM TREES

Less than 45 feet high at maturity; recommended planting strip should not be less than 3 feet wide.

Hawthorn (Washington and Winter King varieties)-white flowers in spring followed by small red fruits persisting through winter.

Little-Leaf Linden-small dense, dark green foliage and inconspicuous small, fragrant flowers in June; Gieneven and Greenspice varieties recommended.

Callery Pear-pyramid tree bearing large masses of white flowers and tiny fruit; fall color is wine red; Redspire and Chaticleer or Cleveland Select varieties recommended.

Red Maple (cultivated varieties)-well formed tree produced colorful, fall foliage. Armstrong is narrow formed; Red Sunset and October Glory varieties are broader in form.

Hop Hornbeam-slow growing with dense elm-like foliage; bark peels in thin strips for an attractive appearance.

Crimson Maple - leaves are crimson/maroon and do not change color in the fall.

Cimmaron Ash - leaves turn dark, brick red in fall.

LARGE TREES

Exceeding 45 feet high at maturity; recommend planting strip should not be less than 4 feet wide.

Thornless Honeylocust (Imperial, Shademaster, Halka and Skyline varieties)-graceful, spreading variety casts light shade; no leaf problem.

Red Oak-massive tree with broad top; relatively fast growing.

Black Tupelo-a pyramid upright tree produces beautiful, fall color; grows well in poorly drained, moist soils.

Sweetgum-a broadly pyramidal tree with star-shaped leaves that turn rich scarlet in autumn; interesting corky bark.

London Plane-a vigorous, quick growing tree with a tall, straight trunk, flaky bark is light-colored underneath.

Silver Linden-a spreading upright tree with leaves that appear two-tone in autumn.

Sugar Maple-broad, round-headed shade tree provides beautiful fall color.

Purple Ash - leaves turn purple in the fall, adaptable to most sites; relatively fast growing.

Marshall Ash - leaves turn yellow in fall, adaptable to most sites; relatively fast growing.

Date: _____

Application Number: _____

This is to certify that _____

Property Owner

Name

Yes ___ No ___

Address

Phone No.

Location of Problem: _____

Applicant has registered with the Village Offices for the purpose of:

_____ Trimming of tree in the right-of-way.

_____ Removal of tree in right-of-way and the re-planting of a new replacement tree in the right-of-way. **(REPLACEMENT TREES MUST BE PLANTED WITHIN SIX MONTHS FROM THE DATE THE TREE COMMISSION GRANTS APPROVAL OF THE REQUEST AND WILL BE PAID FOR BY THE VILLAGE.)**

_____ Planting of tree in right-of-way.

_____ Other

Tree Type (Species) _____

Reason for Request _____

Signature of Applicant

DISPOSITION - TO BE COMPLETED BY TREE COMMISSION MEMBERS

Tree Commission Action: _____ Approve _____ Disapprove

Inspected By: _____ Date: _____

Comments on Decision: _____