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Chapter 912 - TREES AND SHRUBS; COLUMBUS TREE SUBCOMMISSION

912.01 - Definitions.

For the purpose of this chapter, and other chapters of the Columbus City Codes where applicable, the words in this section shall have the following meanings:

- (A) "Trees" when used by itself, means any woody plant which generally includes those having a single main stem which grows to a mature height of over ten (10) feet.
- (B) "Trees, shrubs and evergreens" when used together means all woody vegetation including but not limited to all ground covers.
- (C) "Other plants" means all other vegetation not trees, shrubs or evergreens.
- (D) "Plant materials" means all trees, shrubs, evergreens and other plants.
- (E) "Arboriculture" means the selection, planting, maintenance and removal of trees.
- (F) "Public street" means all the land lying within the dedicated right-of-way or easement.
- (G) "Park" means all public parks having individual names.
- (H) "Public place" means all other ground owned by the city that is not part of a "public street" or "park".
- (I) "Private property" means all real estate within the city of Columbus except real estate that is owned, leased, controlled or occupied by the United States government, state of Ohio, Franklin County government, city of Columbus or any department or agency thereof.
- (J) "Person" means any individual, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or any owner, person, persons or entities.
- (K) "Property owner" shall be presumed to be any one or more of the following:
 - (1) The property owner or owners in fee simple of a parcel of real estate including the life tenant or tenants, if any;
 - (2) Or the record owner or owners as reflected by the current records in the Franklin County auditor's office; or
 - (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (L) "Occupant" means the person or persons who are from time to time in possession of any house or other structure located on private property, or who are exercising dominion or control over any house or other structure located on private property.
- (M) "Director" means the director of the recreation and parks department of the city of Columbus, or any representative the director so designates.
- (N) "Department" means the recreation and parks department of the city of Columbus.

(Ord. 975-91.)

912.01 – Applicability

The provisions of this Chapter shall not apply to city-owned property eligible for coverage under a Land Stewardship Agreement entered into between the Department of Public Utilities and a private property owner pursuant to Section 1117 of the Columbus City Codes.

912.02 - Management and protection.

The department shall have charge, custody and control of trees, shrubs and evergreens planted or to be planted in or on public streets, parks and public places. The department shall have authority to plant, prune, spray, remove and otherwise maintain such trees, shrubs and evergreens in the public streets and parks or upon property owned or controlled by the city of Columbus. Such authority shall exist as long as it does not interfere with the public travel, peace, health and safety.

(Ord. 975-91.)

912.03 - Traffic obstructions.

Whenever the director has been notified by the Director of Public Safety that a violation of Section 912.18 may exist or that a hazard or menace to the safe movement or control of traffic exists by reason of the obstruction of the view of any street light, traffic control device, traffic control signal, or of any public street intersection by trees or parts thereof existing on private property, it shall be the director's duty to determine if a violation of Sections 912.18 or 912.03 of the Columbus City Codes (1959) exists.

(Ord. 975-91.)

912.04 - Preliminary notice of violation.

If it is determined by the director that a violation of Sections 912.18 or 912.03 of the Columbus City Codes exists, then the director shall give a preliminary notice to the owner or occupant of the private property by posting the notice upon such property.

Such preliminary notice shall state the nature of the violation and the action deemed necessary to correct this condition. The preliminary notice shall fix a date, not sooner than seven (7) calendar days thereafter, when the property will be reinspected to determine if compliance has been effected.

If upon reinspection, in accordance with the preliminary notice, it is determined that the violation has been corrected, then the owner or occupants shall not be liable for any charges by reason of the preliminary procedure.

(Ord. 975-91.)

912.05 - Formal notice of violation.

If upon reinspection, after the preliminary notice has been given, the condition has not been corrected, then the director shall cause to be sent to the owner or occupant "formal notice" by Certified Mail, Return Receipt Requested, and the director shall cause to be posted a copy of the formal notice of violation upon such property.

The formal notice shall state the nature of the violation, describe the real estate upon which the condition exists, state the action deemed necessary to correct the violation and set a date not sooner than two (2) calendar weeks after the date such notice was sent and posted when the property will be reinspected to ascertain if abatement has been effected.

(Ord. 975-91.)

912.06 - Failure to abate after notice.

If upon reinspection of the property, after formal notice of the violation, the violation has not been corrected, then the director shall enter upon such private property where the violation exists and take such action that is reasonable and necessary to correct the offending condition.

(Ord. 975-91.)

912.07 - Charges for notice procedure and abatement correction.

The owner or occupant of property upon which labor has been performed for violations of Sections 912.18 or 912.03 of the Columbus City Codes shall pay to the department the actual costs incurred by the department in abating the violation.

(Ord. 975-91.)

912.08 - Lien.

The department shall have a lien upon the offending property from and after the date of performance of the correction acts. The lien shall be perfected in the following manner:

- (A) By the adoption of the recreation and parks commission in a regular or special meeting of an Assessment Resolution which shall give the name of the owner, occupant, or tenant, description of the offending property, and the amount of charges to be assessed; and
- (B) The certification of such Assessment Resolution to the auditor of Franklin County, Ohio, who by special assessment shall cause the amount to be placed on the tax duplicate for the offending private property subject to a collection as in the nature of an additional or supplemental real property tax; and
- (C) Contemporaneously with certification of the Assessment Resolution to the county auditor, the director shall send by ordinary mail a written statement of the amount due to each offending owner, occupant or tenant.

(Ord. 975-91.)

912.09 - Planting permit.

It shall be unlawful for any person to plant or set out any tree, shrub or evergreen in or on any public street, park or public place without first obtaining a written permit from the department. To obtain a permit, an application must be filed with the department specifying the species, cultivar, or variety, size, grade, location, method of planting, method of support, and pruning of the trees, shrubs and evergreens concerned. The application may be approved or disapproved by the director. If the application is approved, a permit shall be issued; however, the permit may be declared void if its terms are violated.

(Ord. 975-91.)

912.10 - Maintenance permit.

Any person desiring to engage in the maintenance of trees, shrubs and evergreens by spraying, fertilizing, bracing, cabling, pruning, surgery work, cutting above or below the ground, or cutting branches or roots in a public street, park or public place, shall first obtain a permit from the department by written application. The permit shall be issued when the director determines that the work applied for is necessary and he approves the proposed method and workmanship.

(Ord. 975-91.)

912.11 - Removal permit.

Any person desiring to remove any trees, shrubs or evergreens in a public street, park or public place shall first obtain a permit from the department by written application. The permit shall be issued when the director determines that the removal is necessary and the applicant agrees to pay the cost of the removal.

(Ord. 975-91.)

912.12 - Protection during building operations.

All trees, shrubs and evergreens on public streets, parks or public places located where any excavation or construction could damage them shall be protected.

The protection shall be a substantial fence protecting the trees, shrubs and evergreens from the materials and debris of construction which shall be kept outside the protection.

(Ord. 975-91.)

912.13 - Protection of wires during pruning or removal.

Whenever the director determines it necessary to prune or remove any trees, shrubs or evergreens in a public street, park or public place, and it is necessary to move or cut off the electricity from any wire designed to carry electric current; then the director shall serve notice on the owner of such wire, to protect such wire, and such owner shall comply with such order within twenty-four (24) hours after the service of such notice.

(Ord. 975-91.)

912.14 - Open space around trees.

No person shall place or maintain upon the ground in a public street, park or public place any stone, brick, sand, concrete, or other material which may injure or impede the passage of water, air and fertilizer to the roots of any trees, shrubs or evergreens unless a permit has been issued by the director. A permit shall be issued upon written application outlining the work to be performed and approved by the director. The permit shall require an open space not less than two (2) feet in width from the trunk of any trees as a condition to its issuance.

(Ord. 975-91.)

912.15 - Plant material fund.

The city auditor has been authorized and directed to establish a trust fund to be known as the "plant material fund". The director may receive contributions which shall be turned over to the city auditor who shall deposit same with the city treasurer in the "plant material fund".

The director shall provide for the purchase of necessary plant material to be paid out of the plant material fund. The director shall set up rules and regulations governing the kinds or types of plant material, the location of the plantings, the rights of any owner or person in possession of such property who contributed the wholesale cost or more and allowed plant material in front of his property, and the rights of any person contributing a sum of money to have plant materials in a public street, park or a public place.

Any funds that are recovered through the sale of wood or wood products from the maintenance or removal of trees, or funds that are generated through the reimbursement of damages for the injury or destruction of plant material located on public streets, parks or public places, shall become part of the plant material fund.

Expenditures from such fund can be used only for the purchase of plant material to be used on public streets, parks or public places. Expenditures shall be made only upon an approved voucher by the director.

The city auditor shall keep a separate account of all receipts of the plant material fund. No part of the plant material fund shall be commingled with any other funds and no unexpended portion of the fund shall at any time lapse into or become part of the general fund of the city. No part of the plant material fund shall be subject to appropriation by the city council for purposes other than those set forth in this section.

(Ord. 975-91.)

912.16 - Prohibited species.

(A) The following species shall not be planted along the public streets or public places, to wit:

- (1) Acer negundo (boxelder);
- (2) Acer saccharinum (silver maple);
- (3) Ailanthus altissima (tree of heaven);
- (4) Catalpa (catalpa - all common species, cultivars and varieties);
- (5) Morus (mulberry - all fruiting species, cultivars and varieties);
- (6) Populus (poplar - all common species, cultivars or varieties);
- (7) Salix (willow - all common species, cultivars or varieties); or
- (8) Ulmus pumila (siberian elm).

(B) This section shall not apply to the recreation and parks department.

(Ord. 975-91.)

912.17 - Abuse or mutilation of trees.

Unless issued a written permit by the director of the recreation and parks department, no person shall attach any rope, wire, nails, advertising poster, or other contrivance to any tree in any public street, park or public place. No person shall permit any fire to burn where such fire or heat therefrom, or heat from any source, will injure any portion of any tree in any public street, park or public place. Without permit, no person shall use herbicides or other chemicals on any trees, shrubs or evergreens in any public street, park or public place.

(Ord. 975-91.)

912.18 - Gas leaks.

No owner, occupant or any public utility maintaining or operating any gas pipes or mains laid beneath any public street, park or public place shall permit a leak to occur or continue after discovery thereof. In the event that such leak exists or occurs in any pipe or main in or on the public street, park or public place, it shall be the duty of the public utility, or the owner, or occupant, or person controlling and maintaining the pipe or main to cause repair to be made immediately. In no event shall such repair take longer than seven (7) calendar days after the leak is discovered. If the owner, occupant, public utility, or person maintaining control and maintenance over the defective pipe or main has received notice from the recreation and parks department that such a defect exists, each day beyond the fifth day from the discovery of the leak shall constitute a violation of this section and subject the person to penalties under this chapter.

(Ord. 975-91.)

912.19 - Interfering with city employees.

No person shall hinder, prevent or interfere with the agents or employees of the recreation and parks department while the employees are engaged in planting, maintaining or removing any tree, shrub or evergreen in any public street, park or public place.

(Ord. 975-91.)

912.20 - Excavation prohibited.

No person shall excavate any ditch, tunnel, trench or lay any drive within a radius of ten (10) feet from any tree, shrub or evergreen standing on any public street, park or public place without first obtaining a permit from the recreation and parks department.

(Ord. 975-91.)

912.21 - Dead or diseased trees.

It shall be unlawful for any property owner to maintain, or permit to stand on his property, dead, diseased, damaged or alive, tree, shrub, evergreen or other plant which is deemed by the recreation and parks department to be a menace to the public peace, health or safety.

(Ord. 975-91.)

912.22 - Destruction of trees.

It shall be unlawful for any person to break, deface, injure, mutilate, kill or destroy any tree, shrub or evergreen in any public street, park or public place.

(Ord. 975-91.)

912.23 - Columbus tree subcommission composition; terms.

There is created an advisory subcommission to the recreation and parks commission to be known and designated as the Columbus tree subcommission, composed of nine (9) citizens. Seven (7) of said members shall be appointed by the mayor with the approval of Columbus city council. The eighth member shall be the director of recreation and parks and the ninth member shall be the city forester of the recreation and parks department, both of whom shall serve as ex-officio members.

New members shall be appointed by the mayor, with concurrence of council, to serve as members without compensation, for the term of five (5) years and until their successors are appointed and qualified. When a vacancy occurs before the expiration of the appointed term, the mayor shall, with the concurrence of council, appoint a member to serve for the unexpired term.

All members of the Columbus tree subcommission shall serve without compensation.

(Ord. 975-91.)

912.24 - Organization of subcommission; by-laws and rules.

The organization of the Columbus tree subcommission shall be as follows:

The subcommission shall elect from its membership at its first meeting a chairman, vice chairman and a secretary. The secretary shall be an employee of the recreation and parks department. All secretarial supplies needed by the secretary shall be supplied by the recreation and parks department.

The subcommission shall meet bi-monthly at such time and place as it decides. The subcommission shall meet at special meetings as called by the chairman, provided twenty-four hours written notice is given to each member.

The Columbus tree subcommission shall adopt by-laws, rules and regulations that are not inconsistent with the provisions of the Columbus City Codes. A copy of the by-laws and rules shall be filed with the clerk of the city of Columbus.

(Ord. 975-91.)

912.25 - Duties of subcommission.

The duties of the Columbus tree subcommission shall be as follows:

To study the problems and determine the needs of the city of Columbus in connection with its tree planting program.

To recommend to the recreation and parks commission the type and kinds of trees to be planted in parks, public places and along city streets.

(Ord. 975-91.)

912.99 - Penalty.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the third degree and fined not exceeding five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days, or both. Any such violation shall constitute a separate offense on each day the violation exists.

(Ord. 975-91.)

