

ORDINANCE 2003-14

VILLAGE OF NEW RICHMOND **TREE ORDINANCE**

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100.01 DEFINITIONS

The following words, whenever referred to in this chapter, are defined as follows:

- (a) "Public place" means any public street, public highway, public park or any property owned or held by the Village, within the boundaries of the Village.
- (b) "Tree" means any tree.
- (c) "Arboriculture" or "tree preservation" means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees, and the removal and prevention of tree pests, blights and diseases of any and all kinds.
- (d) "Director of Public Works" or "Director" means the Director of Public Works of the Village.
- (e) "Village" means the Village of New Richmond, Ohio.
- (f) "Tree Lawn" means the grassy area of the right of way located between the sidewalk and the roadway along streets with closed curbed and guttered storm drainage systems. Right of ways with open storm drain ditches are not classified as tree lawns.

100.02 AUTHORITY OF DIRECTOR OF PUBLIC WORKS

The Director is hereby given full jurisdiction, authority, control, supervision and direction of all trees which now or which may hereafter exist upon any public place in this Village, and over all trees which exist upon any private property in this Village when, in his opinion, such trees constitute a menace to public property, public safety or public welfare of this Village. The Director is also given full jurisdiction, authority and control in connection with the issuing of permits hereinafter provided for. In the exercise of any or all of the powers herein granted, the Director shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the Village as he may from time to time determine.

100.03 PERMIT REQUIRED

No person shall plant, remove, destroy, cut, prune, fertilize, treat, break, climb, injure or spray any tree existing on any public place in this Village, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device whatsoever either to such tree or to any device placed for the protection of the tree, or authorize or cause the same to be done, except having first obtained written permission from the Director to do so.

100.04 PLACING HARMFUL SUBSTANCES NEAR TREES

No person shall permit any natural or artificial gas, salt, brine, water, oil, liquid dye or any other substances deleterious to trees to come in contact with the soil surrounding the roots of any tree upon any public place in this Village in such a manner as to kill, injure, deface, destroy or affect the growth of such trees.

100.05 PLACING STONE OR CONCRETE NEAR TREES

No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in the Village, without first having obtained written permission from the Director. Unless otherwise provided for there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for a tree three inches in diameter, and for every two inches of increase of such diameter, there shall be an increase of at least one square foot of open ground.

100.06 CARE OF TREES DURING BUILDING OPERATIONS

No person in charge of or responsible for the erection, alteration or removal of any building or structure in the Village shall permit any tree upon any public place in the vicinity of such operation to stand without a good and sufficient guard or protection as shall prevent injury, damage or defacement to such tree arising out of, in connection with, or by reason of, such operation. The quality of the guard or protection is to be determined by the Director.

100.07 MOVING OF TREES

All moving of trees upon any public place in the Village made necessary by the moving of a building or structure or any other private enterprise shall be done under the supervision and with the written permission of the Director, and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions to obtaining such permission, shall deposit with the Village such sum in cash as the Director may determine and specify to cover all of the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof. However, in lieu of such cash deposit the Director may, in his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such moving and replacing.

100.08 TRIMMING OF TREES ON PUBLIC PROPERTY

The Director shall, and is hereby directed to, keep all trees standing upon any public place in the Village trimmed so that the branches of such trees projecting over any public sidewalk, private driveway or into any public street beyond the curb line shall not conflict with the public welfare.

Tree trimming crews that are clearing under power or phone lines must meet with the Director and get his approval before doing the work. The Director may request the complete removal

(cutting to the ground) instead of trimming, especially if the result of the trimming will create an aesthetically displeasing tree.

100.09 TRIMMING OF TREES ON PRIVATE PROPERTY

All trees standing upon private property in the Village having branches projecting into public highways or public places shall, under the supervision of the Director, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within seven feet of the ground where they overhang any public sidewalk, public place or public highway.

100.10 PROHIBITED TREES

No Tree of Heaven, *Ailanthus altissima*, Box Elder, *Acer negundo*, Honey Locust (with thorns) *Gleditsia triacanthos*, White Poplar, *Populus alba* shall be permitted upon any tree lawn in the Village, and the Director is hereby authorized to cause all such trees now existing to be removed.

Any Tree of Heaven, *Ailanthus altissima*, Box Elder, *Acer negundo*, native Honey Locust (with thorns) *Gleditsia triacanthos*, White Poplar, *Populus alba* upon private property in the Village, in such close proximity to any public place as will permit the roots of such tree to penetrate through or under the surface of any public place, is hereby declared to be a public nuisance, and shall be abated by the Director.

100.11 PRESERVATION AND REMOVAL OF TREES ON PUBLIC PROPERTY

The Director shall have the right and duty to trim any tree existing on any public place in the Village so as to insure the public safety or to preserve the function or beauty of such public place. He shall further have the right to remove any such tree, or any part thereof, which is in an unsafe condition or which, by reason of its location or nature, is injurious or detrimental to other public improvements, or is infected with any injury, fungus, insect or other pest or disease which cannot otherwise be controlled.

100.12 ENFORCEMENT; INTERFERENCE

No person shall interfere with the Director or his subordinates or assistants while engaged in or about the carrying out of the provisions of this chapter or the doing of any of the work ordered by the Director to be done hereunder.

100.13 PRESERVATION AND REMOVAL OF TREES AND SHRUBS ON PRIVATE PROPERTY

The Director of Public Works is hereby authorized to cause to be inspected any tree or shrub in the Village reported or supposed to be infected, infested by any parasite or insect pest or in any way reported or supposed to be a menace to public property, public health, public safety or public welfare or a public nuisance. If, upon such inspection, the Director determines that such tree or shrub is infected or infested or is a menace to public property, public safety, public health or public welfare or is a public nuisance, he shall, if such tree is located on private property, immediately serve upon the owner of such property a written notice that such tree or shrub must be treated or removed within five days of the service of such notice. If such owner cannot be found, a copy of such notice shall be posted upon the affected tree or shrub. If such tree or shrub is not treated or removed within seven days after the service or posting of such notice, the Director shall cause such tree to be treated or removed, at his reasonable discretion, and, if removed, to be disposed of in accordance with current Village practices. The cost of such treatment or removal shall be assessed against the owner of the property in the same manner as

in other cases of the abatement of nuisances, and, in default of the payment of such cost, the same shall be assessed against the property on which such tree or shrub is located. In the event that the Director determines that such tree or shrub constitutes an immediate danger to public property, public safety, public health or the public welfare, or constitutes a public nuisance so as to require immediate action, the Director, upon reasonable determination, shall be empowered to cause the immediate treatment or removal of such tree or shrub and assess such costs as set forth in this section.

100.14 INSPECTION; DESTRUCTION OF DISEASED TREES; COSTS

The Director of Public Works is hereby authorized to cause to be inspected any tree or shrub within the Village reported or supposed to be infected with the Dutch elm disease or the virus disease phlegm necrosis commonly known as "elm blight". If, upon such inspection, the Director determines that such tree or shrub is infected with either of such diseases, he shall, if the tree is in any public street or grounds within the Village, immediately remove and burn the same in such manner as to prevent as fully as possible the spread of such disease. If such tree is located on private property, the Director shall immediately serve upon the owner of such property a written notice that such tree is infected and that the same must be removed and burned under the supervision of the Director within five days of the service of such notice. If such owner cannot be found, a copy of such notice shall be posted upon such infected tree. If such tree is not removed and burned within seven days after the service or posting of such notice, the Director shall cause such tree to be removed and burned. The cost of such removal and burning shall be assessed against such owner in the same manner as in other cases of the abatement of nuisances, and in default of payment shall be assessed against the property on which such tree is located.

100.15 GIFT-A-TREE PROGRAM

There is hereby established in and for the Village a Gift-A-Tree Program which shall be administered by the Clerk Treasurer.

(a) The Clerk Treasurer shall establish a separate designated fund, maintained in accordance with applicable Village finance procedures, to receive cash donations to the Gift-A-Tree Program.

(b) Donations shall be recorded by the name of the donor, the date and the donation amount. All such donations shall be used solely for the purchase and placement of trees in the Village. Donations may also include trees in lieu of money.

(c) All trees shall be purchased by the Director of Public Works in accordance with appropriate ordinances of the Village. Siting, planting and maintenance of trees will be the responsibility of and at the sole discretion of the Director of Public Works. The Director of Public Works is hereby authorized to adopt rules and regulations as are necessary to implement this Program.

(d) Donations will be acknowledged by a personal letter to the individual honored, a representative of the individual memorialized, and the donor notified as appropriate. The Clerk Treasurer shall cause a Gift-A-Tree Program record book to be created, acknowledging donations, honorariums and memorials. Entered in the Gift-A-Tree Program record book will be individual donations of trees or moneys, which meet or exceed the currently established cost of the acquisition of a single tree. Donations will be accepted throughout the year and will be encouraged throughout the year to facilitate planning.

(e) The initial minimum donation for inclusion in the Gift-A-Tree Program record book shall be fifty dollars (\$50.00) per tree or the donation of a tree acceptable to the Director of Public Works. Such amount may be amended from time to time by resolution of Council so that the Gift-A-Tree Program contribution is maintained at a level equivalent to the current cost of the acquisition and placement of individual trees. Donations of lesser amounts than the cost of a single tree, as currently established or as may be established by resolution of Council, may be

accepted by the Clerk Treasurer, but will not be individually recorded in the Gift-A-Tree Program record book. Such donations may be from time to time, at the discretion of the Clerk Treasurer, added to the record book in groups representative of purchases of trees and their placement without regard to specific locations or designations.

100.15A TREE FUND

There is hereby established a special account to be known as the Tree Fund which account shall be maintained in accordance with regulations of the State Auditor and administrated by the Clerk Treasurer of the Village of New Richmond.

Upon the submittal of an application for a zoning permit for any new residential structure, the owner or applicant shall pay an Urban Forestry Fee of seventy five (\$75.00) per lot to the Village of New Richmond's Tree Fund.

This fund shall be used for the purpose of planting approved trees in established tree lawns and for accessory materials to be utilized in the planting of such trees. The planting of trees within the tree lawns will be done in a manner so as to add a variety of species, placed to assure proper visibility and clearances at intersections and from accessory items such as utilities, electric components, etc. Not all parcels within a subdivision may receive trees. Surplus funds may be deposited into a tree maintenance account. The tree fund may also be used for the planting of trees within village parks, other public areas and the tree nursery.

100.16 PENALTY

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree, and each day during which the violation continues shall be deemed a separate offense.

ADOPTED: 4-22-2003

AMENDED: 4-27-2004

FURTHER AMENDED: 2-14-06

FURTHER AMENDED: 4-24-2007