

ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE, AMENDING TITLE 20, CHAPTER 5, SECTION 20-502(11) OF THE CLEVELAND MUNICIPAL CODE TO AMEND THE DEFINITION OF A STREET TREE; AND TO ALSO AMEND SECTION 20-506 OF THE CLEVELAND MUNICIPAL CODE TO EXPLICITLY DEFINE THE REMOVAL PROCESS OF HEALTHY PUBLIC AND STREET SHADE TREES; TO IDENTIFY THE GUIDELINES NECESSARY FOR REPORTING THE PROSPECTIVE TREE REMOVAL; TO DEFINE THE VOTING AND APPEALS PROCEDURES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, the Shade Tree Board held meetings on June 2, 2015 and again on June 8, 2015 and at these meetings, the Shade Tree Board voted to recommend to the City Council that it adopt an ordinance to clarify the process for the removal of healthy public and street trees by the City; and

WHEREAS, the Shade Tree Board, has further determined that the authority over the removal of trees located on city property shall be vested in the Shade Tree Board and the City Council accordingly, thus substantiating that the adoption and implementation of this ordinance is valid and necessary; and

WHEREAS, based upon the recommendation of the Shade Tree Board, the City Council desires to amend Title 20, Chapter 5, Sections 20-502(11) and Section 20-506 as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

Section 1. That Title 20, Chapter 5, Section 20-502 (11) of the Cleveland Municipal Code is hereby amended to change the definition of "Street Tree" to read as follows:

20-502(11) "Street Tree"- a tree growing within a public right-of way along a street, in a median or the Greenway.

Section 2. That Title 20, Chapter 5, Section 20-506 of the Cleveland Municipal Code is hereby amended to add the following new subsection to be numbered 20-506(2). This new subsection reads as follows:

20-506(2): Removal of healthy public and street trees

As used in this subsection, the terms "public tree" and "street tree" are referencing those trees defined in Section 20-502, but must be five (5) inches in diameter with that required diameter being measured four and one half (4 1/2) feet above ground level in order to qualify for the following procedures. Those public and street trees not meeting the five (5) inch diameter requirements shall be removed at the discretion of the Urban Forester.

It is the purpose of this subsection that no healthy public or street trees equal to or greater than five (5) inches in diameter with that required diameter being measured four and one half (4 1/2) feet above ground level shall be removed by the City, its staff, or any individual before executing the following process:

- (a) The urban forester, or his/her designee, shall take pictures of the healthy public or street tree(s) that is/are proposed to be removed, and they shall be placed on the City's website along with the address and/or approximate location of the tree(s). A notice of the date, time, and location of the respective Shade Tree Board meeting and discussion shall be placed alongside the pictures.
- (b) As the aforementioned notice is placed on the internet, the Urban Forester, or his/her designee, must also send a copy of the pictures and the location of the tree(s) to each member of the Shade Tree Board via e-mail.
- (c) In addition to the publicized pictures, public notice, and Shade Tree Board notice, the Urban Forester, or his/her designee, must place a non-permanent "X" on the tree(s) proposed to be removed and post a sign with a phone number and the Urban Forester's e-mail address in close proximity to the physical location of the tree stating that the tree may be removed. The Shade Tree Board shall approve the format, size, and information included on this public notice sign, and the approved sign shall be uniformly used by the Urban Forester in posting the notice. The Urban Forester shall regularly monitor and keep record of all persons communicating their questions, comments, and concerns. These comments and e-mails shall be provided by the Urban Forester to all members of the Shade Tree Board via e-mail.
- (d) If the previous steps are taken, then the Shade Tree Board will commence discussion and action upon the City's request to remove the healthy public or street tree(s) at the next regular scheduled meeting. The Shade Tree Board may decide to hold a specially called meeting before the next regular scheduled meeting, provided that it is at least fifteen (15) days after all notices and pictures are placed on the City's website, sent to the board members, and posted in the physical location of the tree(s). This shall provide ample time for citizens to comment on the scenario to the Urban Forester and the Shade Tree Board.
- (e) If the Shade Tree Board approves the Urban Forester's request for removal of the healthy public or street tree(s) at the next meeting, then the City shall proceed to remove the tree(s). However, should the Shade Tree Board deny the Urban Forester's request, then the decision may be appealed pursuant to 20-503(5).
- (f) Should an emergency arise that would provide necessary means to remove one or more healthy public or street tree(s), the City of Cleveland shall have the authority to remove the tree(s) without following the previously mentioned procedures. However, the Urban Forester shall communicate via e-mail the circumstances justifying the emergency removal to all members of the Shade Tree Board.

Section 3. That all ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. That this ordinance shall be effective from and after its passage on final reading, the public welfare requiring it.

ORDINANCE NO: 2015-15

WHEREAS the owner(s) of all parcels of land fronting on or having their access from the section of City of Cleveland right-of-way described herein, those parcels and owners being identified in the records of Bradley County, Tennessee, have requested that the City of Cleveland abandon its right-of-way in the aforementioned section of right-of-way; and

WHEREAS the need for the subject right-of-way has been reviewed, including the need for any utility easements that were identified by the responsible utilities; and

WHEREAS the proposed right-of-way abandonment has been reviewed and forwarded by the Cleveland Municipal Planning Commission; and

WHEREAS the proposed right-of-way abandonment has been properly posted and advertised and the procedural requirements of Section 16-123 of the Cleveland Municipal Code for the abandonment of city rights-of-way have otherwise been met; and

WHEREAS the City Council has determined that it is appropriate to approve the requested right-of-way abandonment identified herein, subject to any easements for utilities and/or other conditions as identified herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE:

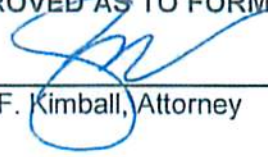
1. DESCRIPTION RIGHT-OF-WAY TO BE ABANDONED: Subject to the retention of utility easements and/or any other conditions described in Sections 2 & 3 below, the City of Cleveland, Tennessee intends to and does hereby abandon its public right-of-way interest in the following section of right-of-way and as shown on Exhibit A:

The portion of Thompson Ln ROW located between Georgetown Rd NW and Guthrie Ave NW.

2. EASEMENTS TO BE RETAINED: The City of Cleveland shall retain a utility easement described in this section and as shown on Exhibit A.

3. CONFLICTS AND SEVERABILITY: All ordinances in conflict herewith are repealed to the extent of said conflict. In the event that any part of this ordinance is ruled to be unlawful by a court of competent jurisdiction, all other parts of the ordinance shall remain in full force and effect.

APPROVED AS TO FORM:



John F. Kimball, Attorney

Tom Rowland, Mayor

Shawn McKay, City Clerk