

**A BILL FOR AN ORDINANCE REGULATING,
PLANTING, MAINTENANCE, REMOVAL,
AND PROTECTION OF STREET AND POTENTIAL
STREET TREES
OF THE LEBANON MUNICIPAL CODE AND
PROVIDING FOR PENALTIES**

Ordinance Bill No. 44
for 2002

Ordinance No. 0332

The People of the City of Lebanon do ordain as follows:

Section 1.

Chapter 12.16 of the Lebanon Municipal Code is hereby amended to read as follows:

12.16.010 Purpose

It is the purpose of this ordinance (as established by the Lebanon City Council) to protect the public health, safety, and welfare and to promote establishment and maintenance of trees in general throughout the city by providing regulations and guidelines for planting, maintenance, and removal of trees, shrubs, and other woody plants in the City of Lebanon.

12.16.020 Definitions

As used in this code, the following definitions apply:

Director of Public Works or his Designee: A person hired or appointed by the City to oversee matters concerning trees within the City of Lebanon. In the absence of the Director of Public Works or his designee, the City Administrator or his designee shall assume this authority.

Hazardous Trees: A tree that is classified as a dangerous tree by the Director of Public Works or his designee.

Potential Street Tree: Any tree or part of a tree, existing or new planting, including the canopy and root system, that lies on private property and has identifiable characteristics that indicate it may occupy public property or Public Right of Way.

Street Tree: Any tree or part of a tree, existing or new planting, including the canopy and root system, that lies on or has grown onto or over public property, or in public "Right of Way" owned by a public entity.

12.16.030 Tree Planting

A. Tree Species to be Planted: The City Park Committee / Tree Board will develop and maintain a list of desirable trees for planting along streets in three size classes based on widths of planting strips in the Right of Way. There shall also be a desirable list of trees for planting under power or other utility lines. These lists shall be found in the City's Street Tree Policy and Potential Street Tree Guide. Trees not on this list shall not be planted as street or potential street trees without specific approval from the Director of Public Works or his designee.

B. Prohibited Trees. It shall be unlawful to plant in any public parking strip the following trees: Poplar, Willow, Conifer, Elm, Ailanthus, Cottonwood, Hawthorn, Fruit Trees and Nut Trees. It is unlawful to plant Willow, Cottonwood or Poplar anywhere in the city unless the City Administrator or his/her designee approves the location as one where the tree roots will not interfere with a public sewer. In designated riparian areas, native species may be planted if the City Administrator or his/her designee approves the location

C. Spacing. The spacing of street trees shall be in accordance with the three species size classes listed in the above mentioned policy, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 30 to 50 feet; and large trees, 40 to 60 feet; except in special plantings designed by a landscape architect or urban forester and approved by the City Planner.

D. Distance between Curb and Sidewalk. The distance required for tree planting between curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in the City's Street Tree Policy and Potential Street Tree Guide. No trees may be planted in planting strip widths less than the following: small trees, 3 feet; medium trees, 5 feet; and large trees, 8 feet and/or as specified in the Street Tree Policy and Potential Street Tree Guide.

E. Planting in Roadways Having No Gutter or Curb. No trees, shrubs, or other vegetation shall be planted in the public right-of-way abutting roadways having no established curb or gutter.

F. Planting Methods. All trees shall be planted using methods prescribed in the City's Street Tree Policy and Potential Street Tree Guide with regard to depth, staking, root barriers, water tubes, etc. whenever practical.

G. Distance from Street Corners and Fire Hydrants. No street tree or potential street tree shall be planted within 25 feet of any street corner, measured from the point of nearest intersecting curb or curb line. No street tree shall be planted within 15 feet of any fire hydrant.

H. Utilities. No street tree or potential street tree, other than those species listed as trees appropriate for planting adjacent to power lines in the City's Street Tree Policy and Potential Street Tree Guide, shall be planted within 25 feet of any overhead electric utility, except service lines. Trees planted within 25 feet of a overhead electric utility will only be allowed if it is a species which attains a mature height of 25 feet or less. No street trees shall be planted within 3 feet of an underground water, storm or sewer line that is less than 5 feet below the surface.

12.16.040 Public Tree Maintenance and Care

A. Tree Maintenance. The primary responsibility for trees in the right-of-way is upon the adjacent property owners. However the City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all street, 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 Director of Public Works or his designee 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 the City's Street Tree Policy and Potential Street Tree Guide and the provisions of this ordinance and a permit is obtained.

B. Standards. All street trees and potential street trees shall be pruned as directed in ANSI, A-300 Standards.

C. Pruning, Corner Clearance. Property owners have responsibility for street trees and potential street trees adjacent to their property. Tree overhanging any street or right-of-way within the city shall be pruned so that their branches shall not severely obstruct the light from any street lamp or obstruct the view of any street sign or street intersection. Adjacent property owners shall trim to maintain a clear space of thirteen feet (13') above street surfaces, fourteen feet (14') above street surfaces on truck routes, or eight feet (8') above the sidewalk surfaces. Said property 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 city shall have the right at any time to prune any tree or shrub on or adjacent to 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 or vision triangle at intersections. The Director of Public Works or his designee may cause a tree to be trimmed for street or sidewalk clearance after notifying adjacent property owners and allowing at least 10 days from the time of notice for property owners to do the trimming. An extension beyond 10 days may be granted by the Director of Public Works or his designee upon request from the affected property owner. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility responsible for the conductor in compliance with any applicable franchise agreements.

12.16.050 Tree Topping

It shall be unlawful for any person or firm to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 Director of Public Works or his designee.

12.16.060 Tree Removal

A. Street Trees. No tree shall be removed from a public right-of-way without first obtaining a permit from the City. Permit request shall include sufficient detail to determine whether issuance of a permit will be granted and shall include reason for the removal. The removal of healthy trees is prohibited unless it can be sufficiently demonstrated that removal is not merely for convenience but would be necessary to the completion of an appropriate project. Tree removal may also be considered for trees that have grown to a point where their root system is causing irreversible damage to streets, curbs or sidewalks and a practical alternative is not evident. Determination as to the appropriateness of tree removal shall be left up to the Director of Public Works or his designee.

B. Park Trees and Other Public Trees. Unless severely damaged by storm or other cause, no tree shall be removed from City parks or other public spaces without the tree being evaluated first by the Director of Public Works or his designee using criteria set forth in the City of Lebanon's, Street Tree Policy and Potential Street Tree Guide.

C. Tree Removal on Private Property. The city shall have the right to cause the pruning or removal of any hazardous tree on private property within the city, when such trees constitute a threat to human life or safety. Except in an emergency when immediate action is necessary for safety, the Director of Public Works or his designee will notify in writing the owners of such trees. Said owners at their own expense shall do pruning or removal within 30 days after the date of notice. In the event of failure of owners to comply with such provisions, or in the above mentioned emergency situation, the City shall have the authority to remove or cause to be removed such trees and assess the cost of removal plus reasonable and actual administrative charges as a lien against the property.

D. Right to Enter. In the event that it becomes necessary for the Director of Public Works or his designee to undertake the inspection, pruning or removal of a hazardous or dead tree from any private property within the city, the Director of Public Works or his designee shall have the right at reasonable times to enter into or upon said property to inspect, prune or remove said dangerous or dead tree.

12.16.070 Permits

A permit shall be obtained from the Director of Public Works or his designee, applying criteria found in the City's Street Tree Policy and Potential Street Tree Guide, before planting, pruning, removing or otherwise affecting a street tree or potential street tree. With a permit, adjacent property owners may plant street trees so long as the selection, location and planting of such trees are in accordance with this policy. Any street tree planted that does not comply with said policy may be removed by the City at the direction of the Director of Public Works or his designee. The cost of such removal will be borne by the person or persons who planted the tree. A permit shall be valid for a period of 180 days following the date of issuance. Utilities or their contractors may apply for and receive blanket permits that will be valid for multiple locations for routine trimming.

12.16.080 Exemptions

In the event of a storm, freeze, or other environmental event resulting in damage to street, potential street trees and public trees, the City Administrator may declare an emergency suspension of the permit requirements for the removal and pruning of trees set forth in this chapter. Such declaration shall prescribe dates during which permits are not required, but in no event may any single declaration exceed 21 days.

12.16.090 Protection of Trees

It shall be a violation of this chapter to plant, or remove any street tree or potential street tree without first obtaining a permit. It shall be a violation of this chapter to destroy, break or otherwise injure any street tree or potential street tree. It shall be unlawful for any person to attach or keep attached to any street or potential street tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign or other device whatsoever, except as a support for such tree. During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or potential street tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal. Excavation shall not occur within ten feet of any street tree or potential street tree without approval of the Director of Public Works or his designee. Utility pole installations under the direction of a public utility, or the City of Lebanon, shall be exempt from the requirements set forth in this subsection. During such excavation or construction, any such person shall guard any street tree or potential street tree within ten feet thereof. All building material or other debris shall be kept at least ten feet from any street tree or potential street tree.


12.16.100 Penalties

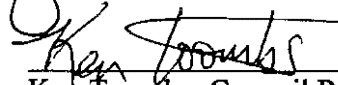
Any person violating Section 12.16.030, Section 12.16.040, subsections B or C, or Section 12.16.050 shall be guilty of a violation, with a maximum penalty of a fine of not more than \$1,000. Any person willfully, recklessly or knowingly violating Section 12.16.060, subsections A or B, Section 12.16.070 or Section 12.16.090 shall be guilty of a misdemeanor, subject to a penalty of not more than one year in jail and/or a fine of up to \$5,000 or both.

Section 2.

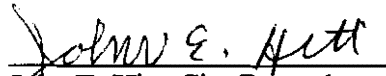
This ordinance shall be effective 30 days after its passage.

Passed by the City Council of the City of Lebanon by a vote of 5 for and 0 against this 4 day of December, 2002.


J. Scott Simpson, Mayor


Ken Toombs, Council President

ATTEST:


John E. Hitt, City Recorder