

BEFORE THE COMMON COUNCIL FOR THE CITY OF JEFFERSONVILLE

STATE OF INDIANA

AN ORDINANCE ESTABLISHING RESPONSIBILITIES AND STANDARDS FOR PLANTING, MAINTENANCE AND REMOVAL OF TREES WITHIN THE CITY OF JEFFERSONVILLE

Whereas, the Council of the City of Jeffersonville has the statutory authority to enact ordinances to promote the general welfare of its residents; and

Whereas, the City of Jeffersonville, does not currently have any ordinance that effectively sets standards for the planting, maintenance and removal of trees within the City; and

Whereas, in the interest of the safety and welfare of its residents the Council desires to establish such standards;

THEREFORE, BE IT ORDAINED by the Council that the following standards are hereby enacted.

Section 1: Definitions

The following definitions shall apply to this ordinance:

- A. **Street Trees:** Any, trees, shrubs, bushes and all other woody vegetation planted in the public right-of-way of the City of Jeffersonville
- B. **Park Trees:** Any trees, shrubs, bushes and all other woody vegetation planted in public parks or other public open spaces within the City of Jeffersonville
- C. **Private Trees:** Any trees, shrubs, bushes and all other woody vegetation planted on private property.
- D. **Shade Tree:** Any deciduous tree that reaches a height of more than 30' at maturity – evergreen trees, regardless of height, shall not be considered shade trees.
- E. **Ornamental Tree:** Any tree or shrub that does not grow to a height of more than 30' at maturity
- F. **Topping:** The severe cutting back of limbs to stubs within the tree's crown to such a degree as to remove the entire normal canopy of the tree.

Section 2: General provisions

- A. The planting of native tree and shrub species is highly encouraged within the City of Jeffersonville. A list of recommended native trees and shrubs is maintained in Article 7 of the City's Zoning Ordinance.
- B. The planting of invasive/exotic species, or the allowing of such species to grow and thrive is highly discouraged and may, depending upon the species, be unlawful by the City or State. A list of common pest plants is maintained in Article 7 of the City's Zoning Ordinance.

Section 3: Street Trees

- A. **City rights and responsibilities:**
 - a. City Departments and their contractors as well as other utility companies and their contractors shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the City right-of-way as may be necessary to insure public safety, insure

the unimpeded flow of pedestrian and vehicular traffic, insure reliability of utility service and/or to preserve or enhance the beauty of such public spaces.

- b. Where planted by the City as part of a street enhancement project, it shall be the City's responsibility to maintain said trees over their lifespan including the removal of said trees.
- c. The City may request the removal or relocation of any young tree, clearly planted within the last year, which is found to be in violation of the planting rules set forth in section C, "Street tree planting and spacing," below. In such case, the City shall give the adjacent property owner written notice of such violation. Said owners shall remove or relocate said trees, at their own expense within 60 days after the date of service of written notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such tree.
- d. Where street trees are removed by the City, all stumps shall be removed so as not to project above the surface of the ground.

B. Adjacent property owners rights and responsibilities

- a. Nothing in this ordinance shall prohibit the planting of street trees, shrubs, or bushes by individuals and adjacent property owners except as noted in section C, "Street tree planting and spacing," below.
- b. Unless it can be proved that the trees were planted by the City as noted in section 3.A.b above, it shall be the adjacent property owner's responsibility to maintain any trees or shrubs planted in the public right-of-way. This includes:
 - i. Pruning trees to maintain 6' of clearance over any sidewalk and 12' feet of clearance over any public street or alley.
 - ii. Removal of dead, broken or fallen branches, and
 - iii. Removal of dead and/or dying trees.
- c. The "topping" of trees within the public right-of-way is considered a safety hazard and is highly discouraged except where large shade trees are located under overhead power lines.
- d. Where street trees are removed by the owner, all stumps shall be removed so as to not project above the surface of the ground.

C. Street tree planting and spacing

- a. Street trees shall not be planted
 - i. Within the 30'x30' sight triangle of the intersection of two local streets, or the 45'x45' sight triangle of any intersection along an arterial street (as illustrated in the Vision Clearance Standards in Article 7 of the Jeffersonville zoning ordinance).
 - ii. Within 5' of any underground water or sewer line.
 - iii. Within 10' of any fire hydrant
 - iv. Between the sidewalk and the curb where the distance between the sidewalk and the curb is less than 4'; where the distance is less than 5', preference should be given to ornamental trees or shade trees that are of a smaller size at maturity.
- b. Shade trees:

- i. Shall not be planted within 35' of the front face of a STOP sign or the post of any traffic signal
 - ii. Shall not be planted within 20' of a streetlight
 - iii. Shall not be planted in the public right-of-way where there are overhead wires except where there is only a single wire serving an individual home or streetlight (or series of streetlights).
 - iv. Should be planted at least 30' from any other shade tree or 20' from any ornamental tree
- c. Ornamental trees:
- i. Shall not be planted within 35' of the front face of a STOP sign or the post of any traffic signal
 - ii. Shall not be planted within 10' of a streetlight
 - iii. Should be planted at least 20' from any other tree.
 - iv. May be planted under overhead wires.
- d. For security purposes, the following shall not be planted in the public right-of-way:
- i. Evergreen trees
 - ii. Shrubs or other plantings that will reach more than 3' in height at maturity.

Section 4: Park Trees

- A. City Departments and their contractors as well as other utility companies and their contractors shall have the sole right to plant, prune, maintain and remove trees, plants and shrubs within City owned parks and open spaces.
- B. It shall be the City's responsibility to maintain all park trees over their lifespan including the removal of said trees due to death, disease or imminent danger to public facilities.
- C. The City should make continued efforts toward the removal of invasive/exotic tree and shrub species from its City parks and open spaces.
- D. It shall be unlawful for any person to intentionally damage, poison, cut, carve, transport, or remove any park trees.
- E. It shall be unlawful to post any signs or posters to any park tree

Section 5: Private Trees

- A. The City shall not impose upon the planting and maintenance of trees planted on private property except as noted below.
 - a. Trees may be required to be planted by the developer at the time of construction. These requirements are listed in the City's development code and are administered by the Planning Department and Plan Commission. Per the code, these required trees may be required to be replaced if said trees die or are removed.
 - b. Private trees shall be planted a minimum of 5' from any public sidewalk
 - c. City Departments and their contractors as well as other utility companies and their contractors reserve the right to prune private trees where they overhang public facilities if the City determines that the overhanging branches are causing a nuisance to public services (e.g. impeding pedestrian or vehicular travel, blocking the view of stop signs or traffic signals, interfering with street lights, etc.) or are determined to be an imminent danger to public facilities.

- d. Dead trees and fallen limbs on private property are subject to removal per the City's property maintenance ordinance (2010-OR-30) and its subsequent amendments.
- B. Where a tree exists on private land but the center of said tree is within 5' of the curb or edge of pavement, it shall be subject to the rules and regulations regarding Street trees above.

Section 6: Enforcement

- A. The City by and through its Board of Public Works and Safety, as the designated enforcement authority of this Ordinance, may bring an action in the Circuit or Superior Court of the County to evoke any legal, equitable, or special remedy.

This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

VOTED FOR:

Matt Owen

VOTE AGAINST:

PASSED AND ADOPTED (Ordinance No. 2021-OR- 9) by the Common Council of the City of Jeffersonville, Indiana on this 15 day of March, 2021.

Matt Owen
 Matt Owen, President

ATTEST:

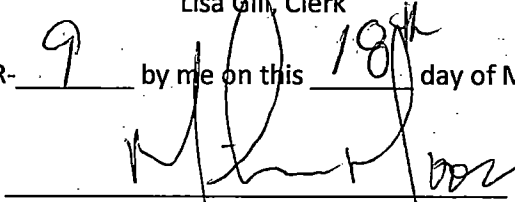
Lisa Gill
 Lisa Gill, Clerk

PRESENTED by me Ordinance No. 2021-OR- 9 to the Mayor of Jeffersonville, Indiana on this 15 day of March, 2021.



Lisa Gill, Clerk

SIGNED and APPROVED Ordinance No. 2021-OR- 9 by me on this 18th day of March, 2021.



Mike Moore, Mayor