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National Graphics Corp., Cols., O.

Form No 2806-A

Ordinance No. 866Passed MAY 20 1986

AN ORDINANCE ESTABLISHING A VILLAGE TREE COMMISSION AND SETTING FORTH ITS POWERS AND DUTIES.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PEMBERVILLE, COUNTY OF WOOD, STATE OF OHIO:

SECTION 1: Definitions. A. Street Trees: "Street trees" are hereby defined as trees, shrubs, bushes and all other woody vegetation on land which is part of the street right-of-way between the street pavement and the owner's property line on all streets, avenues, or ways within the Village. B. Park Trees: "Park trees" are hereby defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names and in all other areas owned by the Village or to which the public has free access as a park.

SECTION 2: Creation and Establishment of the Village Tree Commission. The Village Tree Commission is hereby created and established for the Village of Pemberville, State of Ohio. It shall consist of seven members, citizens and residents of the Pemberville area, one or more of whom shall be a member of the Village Council, and all of whom shall be appointed by the Mayor with the approval of Council. The Tree Commission shall have the right to call in consultants as it sees fit.

SECTION 3: Term of Office. Term of office for each member shall be seven (7) years, except that the initial appointees shall serve terms of one, two, three, four, five, six and seven years, respectively, in such manner that one member's term shall expire each year. In the event that a vacancy shall occur, the Mayor shall appoint a successor to complete an unexpired or expired term.

SECTION 4: Compensation. Members of the Commission shall serve without compensation.

SECTION 5: Duties and Responsibilities. It shall be the responsibility of the Commission to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Village Council and upon acceptance and approval shall constitute the official comprehensive Village Tree Plan for the Village of Pemberville, Ohio. The Commission, when requested by the Village Council, shall consider, investigate, make finding, report, and recommend upon any special matter of question coming within the scope of its work.

SECTION 6: Offices. The Tree Commission shall have a chairperson, a vice-chairperson and such other offices as the Commission shall determine. The Commission shall elect its own officers except that when a member is serving the seventh year of his or her term, that member shall be chairperson and when a member is serving the sixth year of his or her term, that member shall be vice-chairperson. The Commission shall make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

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SECTION 7: Street Trees Species to be Planted. The attached list constitutes the official street trees species for the Village of Pemberville, State of Ohio. No species other than those included in the list may be planted as street trees without written permission of the Village Tree Commission. The list shall be reviewed and updated annually by the Tree Commission.

SECTION 8: Spacing. The spacing of street trees will be in accordance with the three species size classes referred to in Section 7 of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by the Tree Commission.

SECTION 9: Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes referred to in Section 7 of this ordinance. No trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

SECTION 10: Distance from Street Corners and Fireplugs. No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 15 feet from any fireplug.

SECTION 11: Utilities. No street trees other than those species referred to as Small Trees in Section 7 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire or over or within 5 five lateral feet of any underground water line, sewer line, distribution line or other utility.

SECTION 12: Public Tree Care. The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, 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 Village Tree Commission 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.

SECTION 13: Tree Topping. It shall be unlawful as a normal practice for any person, firm or Village Department 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 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 Village Tree Commission.

SECTION 14: Pruning, Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 8 feet

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above the surface of the street or sidewalk. Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on 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.

SECTION 15: Dead or Diseased Tree Removal on Private Property. The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village. The Village Tree Commission will notify, in writing, the owners of such trees. Removal shall be done by such owners at their own expense within sixty (60) days of the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of removal to the owners or cause it to be placed on their tax duplicate.

SECTION 16: Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground to facilitate landscaping. All existing stumps at the passage of this ordinance are the responsibility of the property owners.

SECTION 17: Interference with Village Tree Commission. It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Commission, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying or removal of any street trees or trees on private grounds, as authorized in this ordinance.

SECTION 18: Trees in New Subdivisions. The Tree Commission shall approve the tree plan for any new subdivisions.

SECTION 19: Removal or Mutilation of Trees. It shall be a violation of this ordinance and constitute a misdemeanor to remove, abuse, destroy or mutilate any tree, shrub or plant in a public tree lawn or any other public place, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill, or other thing to or on any tree growing in a public place, or to allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with their roots or leaves.

SECTION 20: Arborists License and Bond. It shall be unlawful for any person or firm to engage in the business or operation of pruning, treating or removing trees within the Village without first applying for and procuring a license. The license fee shall be \$25.00 annually, in advance, provided, however, that no license shall be required of any public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of Workman's Compensation and of liability insurance in the minimum amount of \$500,000 for bodily injury and \$500,000 property damage indemnifying the Village or other person injured or damaged resulting from the pursuit of such endeavors as herein described.

SECTION 21: Review by Village Council. The Village Council shall have the right to review the conduct, acts and decisions of the Village Tree Commission. Any person may appeal from any ruling or order of the Village Tree Commission to the Village Council, who may hear the matter and make a final decision.

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SECTION 22: All funding for the Village Tree Commission shall be approved by Council.

SECTION 23: Disposition of removed tree and stump shall be the responsibility of the Village.

SECTION 24: If the sidewalk is damaged during tree and stump removal, the Village will repair or replace it.

SECTION 25: Penalty. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction or a plea of guilty, subject to a fine not to exceed \$100.00. In addition, the person shall replace any tree damaged with a size and species recommended by the Tree Commission. The damage to each tree by noncompliance with this ordinance shall constitute a separate violation.

SECTION 26: This ordinance shall take effect and be in full force at the earliest period allowed by law.

Passed: 5-20-86

Russ Hagley
Mayor

Attest:

Donald E Cobb
Clerk-Treasurer

First Reading 3 4 86
Second Reading 3 18 86
Third Reading 4 1 86

POSTING CERTIFICATE

I hereby certify that the foregoing Ordinance No. 866, passed by the Council of the Village of Pemberville, Ohio on the 20 day of MAY, 1986, was posted by me on 5-21 1986, at five conspicuous places in the Village of Pemberville as authorized by Ordinance No. 610 and remained posted for 15 days.

Donald E Cobb
Clerk