

City of Munroe Falls



James W. Armstrong, Mayor

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July 17, 2018

Councilwoman Jenny Markovich
City of Munroe Falls
43 Munroe Falls Avenue
Munroe Falls, OH 44262

Re: Maintenance of Trees and Shrubs in City Right of Ways

Dear Councilwoman Markovich:

Please consider this letter as my response to your request for a legal opinion on the issue whether the City of Munroe Falls is responsible for the maintenance of trees and shrubs in the City Right of Ways.

Ohio Revised Code Section 715.20 states "any municipal corporation may regulate the planting, trimming, and preservation of shade trees in streets, alleys, and public grounds and places, and may provide for the planting, removal, trimming, and preservation of such trees and other ornamental shrubbery."

Chapter 917 of the Codified Ordinances of the City of Munroe Falls is entitled "Trees." Section 917.03 "Permission to Plant Trees" provides "no trees or shrubs shall hereafter be planted in or removed from any devil strip in the Municipality without permission from the Zoning Inspector." A devil strip is defined in Section 917.02 as "the area between the road surface and the private property line within public right of way."

"Removal of Trees" in Section 917.06 provides:

"The Zoning Inspector or his duly authorized representative may cause to be trimmed, pruned, or removed any trees or shrubs in any devil strip or may require any property owner to trim, prune, or remove any trees, shrubs, or plants in any devil strip abutting upon such owner's property and failure to comply therewith after thirty days notice by the Municipality, shall be deemed a violation of this Chapter."

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The City of Munroe Falls, through Section 917.07, "Dangerous Trees A Nuisance; Removal" is authorized to make necessary maintenance or removal of any dangerous tree or shrub growing in a devil strip or on private property at the abutting property owner's expense. In the event the abutting property owner does not perform such repairs, the City may make the necessary maintenance and assess the City's cost of such repairs to said property owner.

At present, the City does not have specific fees or funding for a tree and shrub maintenance program. The City could establish a tree and shrub maintenance program and provide adequate funding in its budget for such a program, including the necessary staffing. Alternatively, the City could address the matter as a nuisance abatement. It is my understanding that Munroe Falls may be the only community locally where the City is not responsible for maintaining tree lawn trees and shrubs. Council may consider whether the City wishes to take ownership (and, consequently, the legal and financial responsibility) of trees and shrubs in the devil strip. Council should also consider additional costs, such as employees, salaries, benefits, equipment and insurance.

In my opinion, in the event City Council provides adequate funding in its budget, Council has the authority, by legislation, to establish a tree and shrub maintenance program and the fees for such a program.

Thank you for bringing this matter to my attention.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Thomas W. Kostoff". The signature is stylized and includes a large flourish at the end.

Thomas W. Kostoff
Law Director

Cc: Mayor James Armstrong
Members of Council