

TOWN OF OCEAN VIEW
DELAWARE

September 7, 2021

TO: Mayor and Council

FROM: Carol S. Houck, Town Manager



SUBJECT: Right of Way (ROW) Tree Trimming Activity Recommendation

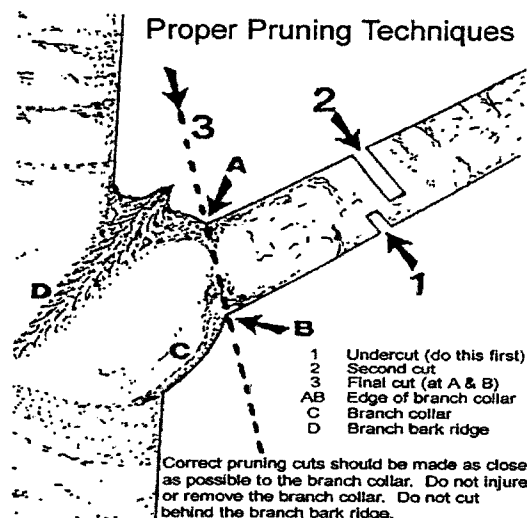
Background

As you are aware, on August 16th our planned tree trimming activities in the vicinity of Woodland, Hudson and Longview were interrupted in association with a resident's exaggerated behavior. As a result, I called a halt to the trimming at 2:30 p.m. as I was concerned for the safety of the work crew and others in the vicinity as well as to end the abusive behavior towards a staff member.

The following outlines the Towns current considerations for ROW tree trimming:

The Town of Ocean View hires tree trimming companies that have experienced arborists. We allow them to guide all trimming efforts. Tree trimming within the right of way (ROW) is necessary to maintain the area for numerous reasons including safe passage of pedestrians, bicyclists and vehicles including but not limited to refuse trucks, school buses and delivery vehicles. Consider our efforts to be like that of a property owner that may trim overhanging tree branches from a neighbor's yard.

At times, taking limbs back to the collar (as depicted below) is recommended.



While the tree trimming effort was taking place in the Towns (ROW) and we continue to have confidence in the decision making and techniques used by our tree trimming companies, it seems in our community's best interest to take steps to strengthen our process and in turn the public's awareness of it.

Town Code

Pursuant to the Charter, at Section 2.313, the Town has the specific power to remove obstructions from streets or sidewalks. To that end, the Council has adopted Code Chapter 169, which provides that nuisances include trees, limbs, bushes, etc. may not project over the streets or sidewalks in Town at a height of less than 12'. If after having received 10 days' notice of the Code violation the nuisance remains, the Town may remove the nuisance.

A violation of this Code provision can result in the property owner paying the costs of the removal and a fine of up to \$250 for a first offense and \$500 for any subsequent offense.

Depending upon the facts as they develop, a person interfering with the tree-cutting could be prosecuted for disorderly conduct – an unclassified misdemeanor.

Going Forward

I present you with two options that the Town may take related to tree trimming in the towns ROW:

Option 1 –

That of only relying on citing and requiring property owners to have trees and bushes trimmed in our right of way through violations. This is a current practice along with a proactive trimming program

If this option is deemed of interest the property owner bordering the right of way will bear all the cost and responsibility for having the trimming completed in all circumstances. This can be a burdensome task for a property owner and delay safety improvements.

The timeliness of the work being completed and the requirement of the Town to manage violations that have not been rectified may result in hazardous areas for longer periods than desired.

Option 2 –

Continuing with citing of property owners as well as our authorized practice of proactively trimming trees and bushes within our right of way under a contractual agreement with a professional tree company as well as where deemed appropriate through violations.

If this option is deemed of interest the Town can effectively address identified right of way concerns in a timelier manner and with the best interest of the overall community.

Tax funds would continue to be utilized to improve visibility, walkability, and open bike lanes in certain identified areas.

This option should include the Town's committing to an advance notification of residents in the vicinity of the trimming or the property that abuts the ROW. This notification should be made by various social media outlets as able, on OVTN and or by posting of mailboxes. We should, however, not be required to obtain responses from property owners signaling their awareness, nor to resort to costly outreach efforts.

This option, given our recent experience, should also outline the consequences for anyone interfering with our ROW trimming. Including this detail will provide ready tools to Town Management when faced with disruptive or abusive behavior.

The attached modifications to the Ocean View Code, Chapter 169 will facilitate the clear understanding of the Town's right to exercise this option.

Recommendation

It is my recommendation that Mayor and Council authorize moving forward with Option 2 as described above and initiate the attached changes to Town Code, Chapter 169 via introduction at your meeting of September 14, 2021 followed by a first and second reading at subsequent meetings and a vote of council.

Proactive tree and bush trimming within right of ways is a regular and customary service of local government. Regular proactive maintenance of the ROW helps to tackle overgrowth and allows the Town to manage the service provider relationship in a more timely and efficient way. This proactive option along with the option of requiring property owners to maintain right of ways offers a comprehensive approach to addressing this property maintenance matter.

Funds should continue to be budgeted annually to perform this necessary trimming.