

## ORDINANCE NO. 2023-125

AN ORDINANCE REPEALING CURRENT CHAPTER 913 ET SEQ OF THE CODIFIED ORDINANCE OF THE CITY OF FINDLAY, OHIO, AND IN ITS PLACE, ENACTING A NEW CHAPTER 913 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO ENTITLED ESTABLISHMENT OF SHADE TREE COMMISSION AND TREE REGULATIONS ORDINANCE FOR THE CITY OF FINDLAY, OHIO, THUS REPEALING ORDINANCE NO. 2016-040, AS AMENDED AND ALL ORDINANCES AND/OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

SECTION 1: That Chapter 913 of the Codified Ordinance of the City of Findlay, Ohio be and the same is hereby repealed in its entirety.

SECTION 2: That a new Chapter 913 be and the same is hereby adopted to read as follows:

### **913.01 ESTABLISHMENT**

There is hereby created and established the Shade Tree Commission of the City of Findlay, County of Hancock, State of Ohio.

### **913.02 MEMBERSHIP AND TERMS**

1. The Commission shall consist of ten (10) members. Six members shall be appointed by the Mayor. One member each shall be from City Council, the City Engineer's office, the Service-Safety Director's office, and one member from the Public Works Department.
2. The Mayor, subject to the approval of the City Council, shall appoint all members of the Commission.
3. The Chairperson of the Commission shall preside over all meetings of the Commission and act as parliamentarian. The Vice-Chairperson shall assume the duties of the Chairperson in his or her absence.
4. The six public members of the Commission shall be appointed for three-year terms and staggered so not more than two members' terms expire in the same year. An exception to the expiration schedule shall be if a member or members resign before the expiration of his/her or their term, the Mayor shall immediately appoint a replacement to fill the unexpired term.
5. The Commission members shall serve without compensation.
6. Any Commission member who misses three (3) consecutive meetings or more than fifty percent (50%) of the regular meetings on an annual basis shall be removed from the Shade Tree Commission.

### **913.03 POWERS AND DUTIES**

1. The Commission, when requested by City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question regarding the tree lawn or public trees.
2. To hold regular and special meetings, at which the subject of trees, insofar as it relates to the Municipality, may be discussed by the members of the Commission, officers, personnel, and Council committees of the Municipality and all others interested in the tree program.
3. To educate and inform the public regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property.
4. To participate in the Tree City USA program, and to ensure the City meets all standards therein, including an Arbor Day observance on an annual basis.
5. To work with the City Administration and the Public Works Department to implement a tree planting program as the budget allows.
6. To adopt rules, regulations, and policy consistent with this chapter and to enforce in a court of law said rules, regulations, and policy.

### **913.04 MEETINGS AND PROCEDURES**

The Commission shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A simple majority of the appointed members present shall be a quorum for the transaction of business. All plans, findings, advice, reports, and recommendations of the Commission shall be in writing. The minutes shall be filed with the Mayor's Office.

### **913.05 TREE REGULATIONS**

#### **A. DEFINITIONS**

1. "Boulevard" means a wider than normal street with two-way traffic separated by a median strip usually landscaped with shrubs and/or trees.
2. "Hazardous Tree" refers to any public tree that has identified parts which are likely sources of harm within a target zone and is capable of causing damage or is a threat to the health and safety of persons or property.
  - a) Size of tree is an obstruction to Engineering as it pertains to sidewalks, utilities, or street cleaning.
  - b) Size of tree is an obstruction for motorists and/or pedestrians.
  - c) Fruit or nut is too messy, has a bad odor, and/or is deemed toxic.

3. "Large Trees" shall refer to trees taller than 50' at maturity.
4. "Medium Trees" shall refer to trees taller than 25' and no taller than 50' at maturity.
5. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
6. "Property Line" means the boundary between two (2) or more pieces of property.
7. "Property Owner" means the person owning such property as shown by the Hancock County Auditor's Plat of the City of Findlay, Hancock County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
8. "Pruning" means the process of removing of tree parts for a specific reason following International Society of Arboriculture Best Management Practices.
9. "Public Places" shall include all other grounds owned by the City of Findlay.
10. "Public Trees" shall include all trees now or hereafter growing within the right-of-way.
11. "Public Works Department" means the person or persons designated by the Service-Safety Director who, among other things, has under his or her control all public streets and highways within the corporate limits of the City.
12. "Right-of-Way" means any strip of land dedicated to public use.
13. "Service-Safety Director" means the person designated as Director of Public Service-Safety pursuant to Ohio Revised Code Chapter 735 et seq and Ohio Revised Code Chapter 737, et seq.
14. "Shrub" means a low growing woody plant with one or several perennial main stems producing branches, shoots, or multiple stems from or near the base of the plant and incapable of being pruned to provide at least six feet of clear branchless trunk.
15. "Small Trees" shall refer to trees no taller than 25' at maturity.
16. "Street, Boulevard or Highway" means the entire width of every public way, easement of right-of-way when any part thereof is open to the public, as a matter of right, for the purpose of vehicular and pedestrian traffic.
17. "Target" refers to people, property, or activities that could be injured, damaged, or disrupted by a tree failure.

18. "Tree" means a tall growing woody plant with one or more perennial main stems or a trunk which develops branches from the aerial section of the stem rather than from the base; capable of being pruned to at least six feet of clear branchless trunk below the crown within ten (10) years of planting. Tree size is defined in 3, 4, and 15 above.
19. "Tree Inventory" means a survey of trees in all public places, including City parks and tree lawns; identifying the number of trees, species distribution, size distribution, maintenance needs, and planting needs.
20. "Tree Lawn" means that part of a street and or that part of private land abutting the street or highway, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
21. "Tree Topping" is the practice of removing whole tops of trees or large branches and/or trunks from the tops of the trees leaving stubs or lateral branches that are too small to assume the role of a terminal leader.
22. "Zoning Department" means the person or persons designated by the Service-Safety Director who is responsible for the administration of the City of Findlay's Zoning regulations.

**B. DUTY OF PRIVATE PROPERTY OWNER**

1. It shall be the duty of any private property owner owning or occupying property bordering on right-of-way upon which property there may be non-public trees or shrubs, to prune or cause to be pruned such tree or shrub in a manner that they will not obstruct street lights, street signs, or obstruct pedestrian or vehicular traffic on sidewalks or streets. Debris disposal shall be the responsibility of the private property owner.
2. It shall be the duty of any person owning or occupying property bordering on right-of-way upon which there are any non-public trees or shrubs that are designated by the Public Works Department as dead, dying, diseased, or hazardous or deemed a menace to the health, safety, and welfare of the people of Findlay, to remove or cause to be removed said tree(s) and/or shrub(s).
3. In either of the above situations, the Service-Safety Director, his/her designee, including the Public Works Department, shall provide a notice to the property owner indicating the required action (pruning or removal) to be taken and a deadline by which to respond. Should the property owner fail to comply with the deadline, it shall be lawful for the Mayor or his/her agent to enter upon the property and cause such action. The property owner or occupant may be charged triple the actual cost of the work and cash payment shall be made within sixty (60) days; otherwise said costs shall be assessed to the property taxes.

4. No person or property owner shall remove or significantly impact a tree from the right-of-way for any reason without approval from the Service-Safety Director and/or the Public Works Department. Should approval not be given for the removal, the person shall be required to replant or replace an equal number of approved trees at the landowner's cost. The Service-Safety Director, the Public Works Department, and/or their designee, must approve the replacement or replanting.

#### C. CITY MAY REMOVE TREES

1. The Public Works Department may identify hazardous trees that have the potential to cause harm to persons or property and may remove those trees as soon as practical.
2. The Public Works Department may remove or cause or order to be removed, any trees or part thereof which by reason of its nature is injurious to existing sewers, electric power lines, gas lines, sidewalks or other public improvements.
3. The Public Works Department shall provide notice to the abutting property owner indicating the required action to be taken.

#### D. CITY MAY PRUNE TREES

1. The Public Works Department may prune trees that impede utility, traffic and visibility clearance, pedestrian and vehicular clearance.
2. The Public Works Department may provide notice to abutting property owner(s).

#### E. CITY MAY PLANT TREES

1. The Shade Tree Commission, with the continuing financial support of the City, will conduct an annual tree planting program. City residents may participate in the tree planting program which will allow them to purchase a tree at a reduced rate, and based on guidance from the Commission, plant the tree in a specified spot within their tree lawn with approval from the Public Works Department.
2. The City may subsidize purchase of a tree to plant on private property in an area not to exceed 20' from the right-of-way line.
3. Whenever it is necessary for the City to remove a tree from the tree lawn and other public places, the property owner may apply to plant a new tree in a contiguous area, if possible, within regulations set forth herein.
4. The Zoning Department may refer developers/builders to this ordinance to ensure plans for proposed landscaping and/or tree plantings comply with regulations set forth herein as defined in Section J.

F. PLANTING TREES IN TREE LAWNS AND OTHER PUBLIC PLACES

No person shall plant a tree in a tree lawn or other public place without first obtaining the prior approval of the Public Works Department, the Shade Tree Commission, or their designee.

G. TREES PROHIBITED IN PUBLIC PLACES

- 1. No person shall plant a tree that is located on the Shade Tree Commission’s prohibited tree list.
- 2. Whenever any tree or shrub is planted or set out in conflict with the provisions of this Regulation, the City may remove without obligation to replace the illegally planted tree(s).

H. ABUSE OR MUTILATION OF PUBLIC TREES

- 1. No person or entity shall intentionally damage, cut, carve, top, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, squirrel feeder, or other contrivance to any public tree or shrub; allow any gaseous, liquid, or solid substance to come in contact with any public tree or shrub; set fire or permit fire to burn when the fire or heat thereof shall injure any portion of any public tree or shrub.
- 2. No person or entity shall excavate any ditches, tunnels, trenches, alley, or drive within a radius of ten feet from any public tree or shrub without obtaining approval from the Public Works Department.
- 3. No person shall deposit, place, store, or maintain upon any tree lawn or public place, any stone, brick, sand, concrete, or other materials that may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written consent of the Public Works Department.

I. TREE SPACING

These are regulations for tree placement and planting. Exceptions may occur in special plantings designed or approved by the Service-Safety Director, the Public Works Department, and/or the Shade Tree Commission.

- 1. The spacing of public trees will be in accordance with the three (3) species size classes referred to in the Ordinance Definitions for tree size and no trees may be planted closer together than the following:
  - Small trees:           twenty (20) feet
  - Medium trees:       thirty (30) feet
  - Large trees:           forty (40) feet
- 2. Trees may be planted on private property a minimum of ten (10) feet from the edge of the pavement and no more than twenty (20) feet from the back edge of the sidewalk.

3. Distance from Curb and Sidewalk: Minimum size of the tree lawn width shall be:

Small trees:	eight (8) feet
Medium trees:	eleven (11) feet
Large trees:	fourteen (14) feet or planted on private property as noted in private easement section and at least five (5) feet from the sidewalk and no more than twenty (20) feet from right-of-way line.

Plant trees in center of tree lawn to avoid root problems with sidewalks and curbs. Exceptions may occur in special plantings designed or approved by the Service-Safety Director or Public Works Superintendent.

There shall be no plantings in a tree lawn of less than eight (8) feet.

J. DISTANCE FROM THE STREET CORNERS, WATER METERS, MANHOLES, FIRE PLUGS, ETC.

1. No public tree shall be planted closer than fifty (50) feet from any stop sign or seventy-five (75) feet from the outside of the curb radius on a street where there are no stop signs.
2. No public tree shall be planted closer than ten (10) feet to any fire hydrant.
3. No public tree shall be planted closer than ten (10) feet to any water meter cover or lid or manhole cover or lid.
4. No public tree shall be planted closer than five (5) feet from underground utility lines, including gas, electric, and sewer.
5. No public tree shall be planted closer than twenty-five (25) feet from curb cuts (e.g. driveways or crosswalks) and street signs.
6. No public tree shall be planted closer than twenty-five (25) feet from street lights.
7. No public tree shall be planted until all utilities are located by the Ohio Utilities Protection Service (OUPS).
8. No public tree shall be planted under overhead utility wires with a planting distance no closer than twenty-five (25) feet.
9. No public trees shall be planted closer than seventy-five (75) feet from mid-street crosswalks.
10. Minimum size of the tree planting area shall be ten (10) feet from edge of pavement.



**K. ADOPTION OF RULES**

The Shade Tree Commission, with the approval of City Administration, may adopt rules consistent with the Ordinance that shall provide detailed guidelines for the administration of this Ordinance.

**913.99 PENALTY**

Any person violating or failing to comply with any provision of this chapter upon conviction or a plea of guilty, for the first offense shall be subject to a minor misdemeanor penalty. A second violation shall constitute a separate violation and upon conviction or plea of guilty shall be subject to a misdemeanor of the fourth degree penalty. A third violation upon conviction or a plea of guilty shall be subject to a misdemeanor of the third degree penalty. A fourth violation upon conviction or plea of guilty shall be subject to a misdemeanor of the second degree penalty. A fifth and subsequent violation, thereafter, upon a conviction or plea of guilty shall be a misdemeanor of the first degree. The Court shall consider the issue of restitution for damages in addition to any fine or term of imprisonment.

SECTION 3: This Ordinance shall be in full force and effect from and after the earliest period provided by law.

  
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PRESIDENT OF COUNCIL  
  
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MAYOR

PASSED December 19, 2023

ATTEST Denise DeVore  
CLERK OF COUNCIL

APPROVED December 19, 2023