

ORDINANCE NO. 2016-040, AS AMENDED

AN ORDINANCE REPEALING CHAPTER 913 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, AND IN ITS PLACE, ESTABLISHING A NEW CHAPTER 913 ENTITLED ESTABLISHMENT OF SHADE TREE COMMISSION AND TREE REGULATIONS ORDINANCE FOR THE CITY OF FINDLAY, OHIO.

SECTION 1: That Chapter 913 of the Codified Ordinance of the City of Findlay, Ohio be and the same is hereby repealed in its entirety.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 eleven (11) members. Six members shall be appointed by the Mayor. One member each shall be from City Council, the City Engineer's office, the Service Director's office, a City Forester, 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 so 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 establish the recommended species and varieties of trees to be planted in the tree lawns and other public places.
5. To implement an Arbor Day observance on an annual basis.
6. To participate in the Tree City USA programs to the extent possible.
7. To work with the City Administration, the Public Works Department, and/or a Forester to implement a tree planting program as the budget allows.
8. 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. "City Forester" means the person who, under regular supervision, performs specialized professional work in the planning and coordination of a comprehensive tree management program throughout the City.

3. "Hazardous Tree" means any public tree capable of causing damage or safety threats to persons or property. In situations that are not readily obvious, use the following definition: shall refer to a tree when assessed by a trained, professional arborist or urban forester utilizing International Society of Arboriculture Tree Risk Assessment Best Management Practices is deemed as having a high probability of failure and Targets.
4. "Large Trees" shall refer to trees taller than 50' at maturity.
5. "Medium Trees" shall refer to trees taller than 25' and no taller than 50' at maturity.
6. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
7. "Property Line" means the boundary between two (2) pieces of property.
8. "Property Owner" means the person owning such property as shown by the 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.
9. "Pruning" means the arts and science of removing of tree parts for a specific reason following International Society of Arboriculture Best Management Practices.
10. "Public Places" shall include all other grounds owned by the City of Findlay.
11. "Public Trees" shall include all trees now or hereafter growing on any public places or tree planting area.
12. "Public Works Superintendent" means the person designated by the Service Director who, among other things, has under his or her control all public streets and highways within the corporate limits of the City.
13. "Right-of-Way" means any strip of land dedicated to public use.
14. "Service Director" means the person designed as Director of Public Service pursuant to Ohio Revised Code Chapter 735 et seq.
15. "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.
16. "Small Trees" shall refer to trees no taller than 25' at maturity.
17. "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.

18. "Target" refers to people, property, or activities that could be injured, damaged, or disrupted by a tree failure.
19. "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 4, 5, and 16.
20. "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.
21. "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.
22. "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.

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 shade or 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 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 Public Works 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 thirty 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 Public Works Department, and/or City Forester, and/or the Service Director. 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 Public Works Department, and/or City Forester, and/or the Service Director must approve the replacement or replanting. Failure to plant replacements shall result in replacement by the City and triple the actual cost to the City shall be billed to the property owner.

C. CITY MAY REMOVE PUBLIC TREES

1. The Public Works Department, with the assistance of a City Forester, may identify hazardous trees that have the potential to fall on people or property, and may remove those trees as soon as practical. In situations that are not readily obvious, a certified arborist or urban forester shall be used to determine if a tree or trees should be removed utilizing International Society of Arboriculture Tree Risk Assessment Best Management Practices.
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, water lines, sidewalks or other public improvements.
3. The Public Works Department shall provide notice to the property owner indicating the required action to be taken.

D. CITY MAY PRUNE TREES

1. The Public Works Department and/or a City Forester may prune trees that impede utility, traffic and visibility clearance, pedestrian and vehicular clearance.
2. The Public Works Department and/or a City Forester may provide notice to 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 on their tree lawn.
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 Public Works Department 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. Developers/builders will submit plans in advance to the Shade Tree Commission, Service Director, Public Works Department, and/or a City Forester for tree planting in tree lawn areas. Plans for proposed tree plantings must comply with regulations set forth herein.

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 Tree Commission or designee.

G. TREES PROHIBITED IN TREE LAWNS & OTHER PUBLIC PLACES

1. No person shall plant a tree that is 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 Public Works Department may cause the removal of the same without obligating the City 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 tree or shrub; allow any gaseous, liquid, or solid substance to come in contact with them; set fire or permit fire to burn when the fire or heat thereof shall injure any portion of any 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.

I. PLACING MATERIALS ON PUBLIC PROPERTY

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.

J. TREE SPACING

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

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. TREE LAWN

a. 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 at least 5 feet from the sidewalk and no more than 20 feet from right of away line.

Plant trees in center of the tree planting area to avoid root conflicts with sidewalks and curbs.

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

K. DISTANCE ON NON CURBED STREETS

Minimum size of the tree planting area shall be 10' from edge of pavement.

L. 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 four (4) feet from underground utility lines and utilities including gas, water, and sewer.
5. No public tree shall be planted closer than ten (10) 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 trees shall be planted closer than seventy-five (75) feet from mid street cross walks.
- 8. No public tree shall be planted until all utilities are located.

M. UTILITIES

No public trees may be planted under or within twenty-five (25) lateral feet of any overhead utility wire without prior approval from the Service Director, the Public Works Department, a City Forester and/or Shade Tree Commission.

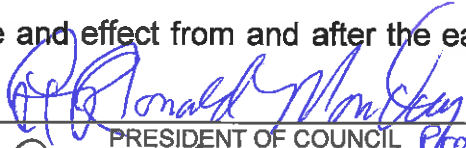
N. ADOPTION OF RULES

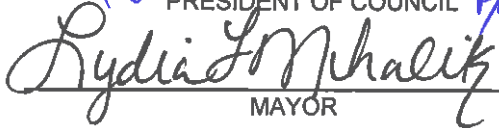
The Shade Tree Commission, with the approval of City Administration, may adopt rules consistent with the Ordinance that shall provide detailed guidelines for the administration of this Ordinance.

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.



 PRESIDENT OF COUNCIL *Pro-Tem*


 MAYOR

PASSED May 17, 2016

ATTEST Denise DeVore
CLERK OF COUNCIL

APPROVED May 17, 2016