

CHAPTER 913
Trees

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CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio
R.C. 715.20

913.01 DEFINITIONS.

As used within this chapter, the following terms shall have the meanings set forth in the section:

- (a) "Tree" means:
- (1) Any living woody plant with needles or scaletype leaves that has a well-defined stem or stems with a diameter of at least six inches at 4 1/2 feet from the surface of the ground.
 - (2) Any living, self-supporting woody broad leaf plant that has a well-defined stem or stems with a diameter of at least two inches at 4 1/2 feet from the surface of the ground.
 - (3) Any living self-supporting woody plant that has a well-defined stem or stems which has been intentionally cultivated and established.
- (b) "Public trees" include all trees now or hereafter growing on any street, park or any other public site.
- (c) "Large trees" are designated as those attaining a height of forty-five feet or more.
- (d) "Medium trees" are designated as those attaining a height of thirty to forty-five feet.

- (e) "Small trees" are designated as those under thirty feet.
- (f) "Remove" or "removal" means the removal of all above and below ground parts, including the stump.
- (g) "Diameter at breast height (D.B.H.)" means a tree's diameter in inches measured by a diameter tape at 4 1/2 feet from the surface of the ground. On trees having multiple stems, the largest diameter stem will be measured. (Ord. 1803-C-94. Passed 5-16-94.)

913.02 CREATION AND ESTABLISHMENT OF A TREE COMMISSION.

- (a) There is hereby created and established a Tree Commission for the Village, appointed by the Mayor with confirmation by Council, to consist of five members as follows:
 - (1) One member of Council to serve for his term; and
 - (2) Four members to be qualified electors of the Village or individuals with a professional background that would benefit the Commission.

(b) Within thirty days following the expiration of the term of any appointed Tree Commissioner, a successor shall be appointed by the Mayor with the approval of Council, and the successor shall serve a term of four years. Successive terms shall be permitted, but in no case shall any member serve more than a four year term without reappointment and reconfirmation by Council. A vacancy occurring during the term of any member of the Tree Commission shall be filled for the unexpired term in the manner authorized for an original appointment. The Mayor, with the consent of Council, shall have the power to remove any member from the Commission for cause. A member of the Commission may be removed by the Mayor with the consent of Village Council in the event the Member misses three (3) meetings of the Review Board in a calendar year. (Ord. 2217-11. Passed 6-13-11.)

913.03 COMPENSATION.

Members of the Tree Commission shall serve without compensation, but shall be entitled to reimbursement for any and all necessary expenditures in carrying out the duties of said Commission and may retain the services of qualified professionals as may be necessary to facilitate the function of said Commission. (Ord. 1803-C-94. Passed 5-16-94.)

913.04 OPERATION.

The Tree Commission shall meet once a month and shall hold its first meeting in the month following enactment of this chapter, at which time it shall elect a Chairman and Vice-Chairman and thereafter shall elect officers at its first meeting in January of each year. A majority of members shall constitute a quorum and any actions of the Tree Commission may be taken by a majority of the members present at the meeting at which the action is taken. The Tree Commission shall keep minutes of its meetings and file them with the Clerk of Council. A Special Meeting may be called by the Chairman, or in his absence the Vice-Chairman or by any two Tree Commissioners. (Ord. 1803-C-94. Passed 5-16-94.)

913.05 DUTIES AND RESPONSIBILITIES.

(a) It shall be the responsibility of the Tree Commission to develop, administer and maintain a written plan to be known as the Master Tree Plan.

(b) The Tree Commission, when requested by Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. The Tree Commission shall study the problems and determine the needs of the Village in connection with its tree planting program.

(c) The Tree Commission shall recommend the type and kind of trees to be planted upon such Village streets or parts of Village streets or in parks as designated.

(d) The Tree Commission shall assist Council and citizens of the Municipality in the dissemination of news and information regarding the selection, planting and maintenance of trees within the Village limits, whether the same be on private or public property and to make such recommendations from time to time to Council as to desirable legislation concerning the tree planting program and activities for the Village. The Tree Commission shall work in conjunction with civic and public interest groups devoted to tree care and preservation. (Ord. 1803-C-94. Passed 5-16-94.)

913.06 MASTER PLAN.

The Tree Commission shall have the authority to formulate a Master Tree Plan. The Master Tree Plan shall include the inventory of existing public trees and shall specify the requirements for the care, preservation, pruning, planting, replanting, and removal or disposition of trees in parks, along streets and on other public sites and shall specify the species of tree to be planted in these areas. The Master Tree Plan shall be updated and presented to Council annually and upon their acceptance and approval shall constitute the official comprehensive Master Tree Plan for the Village. From and after the effective date of the Master Tree Plan, or any amendment thereof, all planting shall conform thereto.

(a) The Tree Commission shall have the responsibility of inventorying (and classifying as to location, species, size, condition and evaluation) the existing public trees, as an integral part of the Master Tree Plan. This inventory shall be updated annually.

(b) The Tree Commission shall consider all existing and proposed buildings, utilities and environmental factors when recommending the planting of a specific species or other work for all streets and public sites within the Village.

(c) The Tree Commission shall have the authority to amend or add to the Master Tree Plan at any time that circumstances make it advisable.

(Ord. 1803-C-94. Passed 5-16-94.)

913.07 TREE SPECIES TO BE PLANTED.

The Tree Commission shall develop and maintain a list of desirable large, medium and small trees for planting in parks, along streets and on other public sites based on mature height. Lists of trees not suitable for planting in these areas shall also be created by the Tree Commission. (Ord. 1803-C-94. Passed 5-16-94.)

913.08 PUBLIC TREE CARE.

The Village shall have right to plant, prune, maintain and remove all public trees, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public sites. The Tree Commission may remove or cause to be removed, any public 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 disease, insect or fungus.

(Ord. 1803-C-94. Passed 5-16-94.)

913.09 TREES IN RIGHT OF WAY.

If the Tree Commission or a representative thereof determines that a tree located in the Village right of way is in such a condition either by disease or limb growth that it is causing an obstruction to the normal use of the right of way, Council shall cause such tree to be removed or trimmed, as the case may be, at the Village's expense.

(Ord. 1803-C-94. Passed 5-16-94.)

913.10 TREES ADJACENT TO RIGHT OF WAY.

If it is determined that a tree located adjacent to the Village right of way is in such a condition either by disease or limb growth that it is causing an obstruction to the normal use of the right of way, Council shall cause the tree to be removed or trimmed as is necessary at the expense of the abutting landowner.

(Ord. 1803-C-94. Passed 5-16-94.)

913.11 PLANTING AND MAINTENANCE.

(a) Trees are to be dug and handled in such a way that the roots are adequately protected.

(b) No tree shall be bound with wire or rope at any time so as to damage bark, branches or destroy its natural shape.

(c) All trees shall be properly protected by suitable covering during shipment.

(d) Storage of material and/or equipment in the public right of way to install trees shall have the approval of the Village Street Department.

(e) Unattended excavations of trees shall be back-filled, covered or barricaded.

(f) All excess waste materials shall be continuously and promptly removed.

(g) All pavements and sodded and planted areas which are disturbed shall be restored to their original condition or better.

(h) Should any damage or unauthorized disturbance to any public property, including pavement and sidewalks, or any utility system occur, the planter or contractor shall immediately notify the property owner and Street Commissioner.

(i) Maintenance after planting shall include good horticultural practices as required to insure normal, healthy growth of the planting concerned.

(j) Trees should be a minimum of one to one and one-half inches in diameter when planted and have well developed branches and a vigorous root system.

(k) No person shall girdle, remove or top any healthy tree in the public right of way or other 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 as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms, insects, diseases or certain trees under utility wires or other obstructions where other pruning procedures are impractical may be exempted from this section.
(Ord. 1803-C-94. Passed 5-16-94.)

(l) Prior to any tree work including removal, planting, trimming, or pruning of any tree within the Village right of way, a tree work permit must be obtained by the applicant and approved by a member of the Burton Tree Commission. A copy of the required "Tree Work and Removal Permit" is attached to original Ordinance 1872-96 as Exhibit "A".

(m) Whenever the Tree Commission determines that a condition exists on a tree which, because of said tree's proximity to the right of way, poses a danger to the health, safety and welfare of the Village of Burton and its residents, the Commission may issue notice to the owner of property containing such trees informing such owner of the condition needing to be corrected and advising said owner of the required or suggested treatment. Said notice shall be signed by no less than two Tree Commission members and shall specify a reasonable date of completion of the recommended corrected measures. A copy of the "Notification of Arboricultural Specifications and Requirements" which shall be utilized as said notice is attached to original Ordinance 1872-96 as Exhibit "B". Said notice may either be hand delivered or sent certified mail, return receipt requested to said owner's last known address.
(Ord. 1872-96. Passed 4-15-96.)

913.12 CARE OF TREES FOR COMMERCIAL USE.

The term tree in this provision refers to the hard or sugar maple tree (*Acer Saccgarum*). Tapping of Village trees shall be conducted with due regard for the viability and health of the tree.

- (a) Trees that have lost 1/2 of their crown from damage or disease shall not be tapped.
- (b) No tree under ten inches in D.B.H. shall be tapped; a simple ten-inch gauge shall be provided.
- (c) Trees with D.B.H. measures of ten to eighteen inches shall have one tap; a simple eighteen-inch gauge shall be provided.
- (d) Trees with D.B.H. measures greater than eighteen inches may have two taps.
- (e) No tree shall have more than two taps in any one season.

(Ord. 1803-C-94. Passed 5-16-94.)

913.13 PUBLIC UTILITY COMPANIES.

Public utility companies shall notify the Tree Commission prior to pruning any public tree for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural standards. If accepted arboricultural standards are not followed, the Tree Commission will immediately file a formal complaint with the Public Utilities Commission.

(Ord. 1803-C-94. Passed 5-16-94.)

913.14 EMERGENCIES.

In the case of officially declared emergencies, such as windstorms, ice storms, or other disasters, the requirements shall be waived so that the requirements of this chapter would in no way hinder public and/or private work to restore order in the Village. This work shall follow maintenance standards as outlined by the Tree Commission.
(Ord. 1803-C-94. Passed 5-16-94.)

913.15 REGISTRATION OF TREE EXPERTS.

(a) To protect the public, the Village shall require any person or firm engaged in the business of public tree maintenance and/or removal to be licensed by the Village.

- (1) The registration fee shall be thirty-five dollars (\$35.00) annually.
- (2) Before any license shall be issued, each applicant shall first file evidence verifying:
 - A. Coverage by Workers' Compensation
 - B. Liability insurance coverage in the minimum amounts of one million dollars (\$1,000,000) for bodily injury and one million dollars (\$1,000,000) for damage to property to cover and save harmless the Village and its agents from all suits, claims or actions of every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly by the conduct of the work contemplated, or by acts of strangers, or any conditions due to the elements or any defects or insufficiencies in any method, material, ways, machinery, equipment or apparatus used in connection with the work.
 - C. Certification by the Ohio Chapter of the International Society of Arboriculture is required for tree maintenance such as pruning or trimming. (Ord. 2204-10. Passed 9-8-10.)

(b) No license shall be required of any public service company including utilities and their agents and contractors or employees of the Village doing such work in the pursuit of their public service endeavors.
(Ord. 1803-C-94. Passed 5-16-94.)

913.16 COMMISSION AS TRUSTEE.

The Tree Commission may act as trustee for any property, assets or funds donated to the Village for the care and maintenance of public trees, provided the donor designates or provided for the designation of the Commission as such trustee. In such an event, the Commission shall have those powers and duties necessary to carry out the purpose of the trust.
(Ord. 1803-C-94. Passed 5-16-94.)

913.17 ESTABLISHMENT OF FUND.

(a) A rotary trust fund account, within the various funds of the Village, known as the "Tree Commission Fund Account" is hereby established which is to be utilized for the receipt of license and permit fees, bond monies generally, grant monies, damages, penalties and donations. Disbursement shall be solely for the purpose of encouraging the planting, maintenance and relocation of public trees within the Municipality under the jurisdiction of the Tree Commission.

(b) The Director of Finance is authorized and directed to receive such monies at intermittent intervals, to segregate them into the trust fund account for purpose herein mentioned, and thereafter to periodically disburse any funds that shall be appropriated to provide for the planting, maintenance and relocation of public trees, within the Municipality under the jurisdiction of the Tree Commission.
(Ord. 1803-C-94. Passed 5-16-94.)

913.18 REVIEW BY COUNCIL.

Council shall have the right to review the conduct, acts and decisions of the Tree Commission. (Ord. 1803-C-94. Passed 5-16-94.)

913.99 VIOLATION AND PENALTY.

Any person or firm violating any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each separate offense. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree is caused, the cost of repair or replacement of such trees shall be borne by the party in violation. The replacement value of trees shall be determined in accordance with the latest revision of "Valuation of Landscape Trees, Shrubs, and Other Plants", as published by the International Society of Arboriculture.
(Ord. 1803-C-94. Passed 5-16-94.)

