

**ORDINANCE NO. 27-2023**

**AN ORDINANCE AMENDING CHAPTER 913, TREES, OF THE CODIFIED  
ORDINANCES OF THE VILLAGE OF PLAIN CITY**

**WHEREAS**, the Village of Plain City Codified Ordinances Chapter 913, titled "Trees", sets forth matters in regards to the planting, preservation, and removal of trees within the public right-of-way of the Village of Plain City; and

**WHEREAS**, the Village of Plain City Council previously adopted Ordinance 14-98 which established the current parameters of Chapter 913; and

**WHEREAS**, the Tree Commission, within its authority set forth by Chapter 145 of the Codified Ordinances, has reviewed Chapter 913 to determine if an amendment is necessary; and

**WHEREAS**, having performed such review, the Tree Commission has unanimously recommended that Council approve a comprehensive amendment to Chapter 913, as attached herein; and

**WHEREAS**, such comprehensive amendment provides the foundation for the Village of Plain City to apply for the classification of "Tree City USA", an important designation in exhibiting the Village's commitment to preserving the tree canopy for future generations; and

**WHEREAS**, the Village of Plain City Council has determined the need to amend Chapter 913, in accordance with Exhibit A, which is attached hereto and incorporated herein.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

**Section 1.** Council hereby amends Codified Ordinance Chapter 913, as presented, which said amendment is attached hereto and incorporated herein as Exhibit A; the language being removed is ~~struck~~ and language being added is in red and underlined.

**Section 2.** It is found that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 3.** This Ordinance shall be effective from and after the earliest period provided by law.

Passed: October 9, 2023.

Attest: Austin Praier  
Clerk of Council

Jody Carney  
Mayor

First reading: September 25, 2023.

Vote: \_\_\_ yea \_\_\_ nay \_\_\_ abstain

Second reading: October 9, 2023.

Vote: 6 yea \_\_\_ nay \_\_\_ abstain

### Certificate of Publication

The undersigned, being Clerk of Council of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section 4.15 of the Codified Ordinances. The posting was done from October 10, 2023 to October 25, 2023 at the Office of the Clerk of Council located at 800 Village Boulevard; all being in the Village of Plain City, Ohio and the Village of Plain City Website at [www.plain-city.com](http://www.plain-city.com).

Date: October 10, 2023

Austin Praier  
Clerk of Council

# EXHIBIT A

## CHAPTER 913

### Trees

#### **913.01 Planting, Trimming, and Preservation Definitions**

#### **913.02 Privately Owned Trees**

#### **913.03 Public Trees**

#### **913.99 Penalty**

#### **CROSS REFERENCES**

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

Assessments for tree planting or maintenance - see Ohio R.C. 727.011

Injury or destruction - see GEN. OFF. [541.06](#)

#### **913.01 PLANTING, TRIMMING, AND PRESERVATION DEFINITIONS**

The planting, trimming, and preservation of trees within the right-of-way of public streets and alleys located within areas zoned for residential use shall be governed by the following regulations:

- (a) Property owners may plant trees within the right-of-way located adjacent to their property. Such trees are, however, subject to removal by the Village in case of a need to prevent nuisance within the right-of-way, to access utilities under or near such trees, or to prevent damage to public service or safety vehicles.
- (b) Such trees may not be removed by any person except with the consent of the Village Administrator.
- (c) Trees expressly approved for planting within the right-of-way include: Flowering Cherry (Prunus), Flowering Crabapple (Malus) - Scab-free varieties, Flowering Pear (Pyrus) - Aristocrat, Dogwood (Cornus), Redbud (Cercis), River Birch (Betula), Sweetgum (Liquidambar), Sour Gum (Nyssa), Greenspire Ash (Fraxinus), Serviceberry (Amelanchier), Pussy Willow (Salix), Star Magnolia (Magnolia), Goldenrain Tree (Koeleruteria), Golden chain (Laburnum), Mugho Pine (Pinus), Dwarf Spruce (Abies).
- (d) The following trees shall not be planted within the right-of-way: Tree of Heaven (Ailanthus), Hackberry (Celtis), Thorn Bearing Hawthorns (Crataegus), Cottonwood, Aspen, or Hybrid Poplars (Populus), Silver Maple, Norway Maple (Acer), Weeping or Black Willows (Salix), Spruce except Dwarf (Picea), Pines except Mugho (Pinus), Fir (Abies), Yew (Taxus), Hemlock (Tsuga), or other Evergreens.
- (e) If a property owner desires to plant a tree within the right-of-way which is not listed as approved, he or she shall make application to the Village Administrator for permission to make such planting. To be considered, the trees to be planted shall be of a species or variety of small to medium height trees that will not obstruct either the sidewalk or



~~the street, or exhibit undesirable characteristics in their growth such as shallow, wide-ranging roots.~~

~~(Ord. 14-98, Passed 5-26-98.)~~

- (1) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (2) "Street or Highway" means the entire width of every public way, easement or 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.
- (3) "Public Places" shall include all real property owned by the Village of Plain City.
- (4) "Property Line" means the outer edge of a Street or Highway.
- (5) "Administrator or their Agent" is the Village Administrator or employee hired by the Village of Plain City charged with the administrative duties of the Village.
- (6) "Tree lawn" means that part of a Street or Highway, lying between the Property Line and that portion of the Street or Highway usually used for vehicular traffic.
- (7) "Property Owner" means the Person owning such property as shown by the County Auditor's Plat of the Village of Plain City, Madison or Union County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
- (8) "Tree" means a tall growing woody plant with one of more perennial main stems or trunks which develops branches from the aerial section of the stem rather than from the base; capable of being pruned to as least six feet of clear branchless trunk below the crown within five years of planting.
- (9) "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 within five years of planting.
- (10) "Public Trees" shall include all shade and ornamental Trees now or hereafter growing on any Public Places.
- (11) "Right-of-Way" means any portion of the public way, street, alley, or sidewalk.
- (12) "Tree Topping" means the severe cutting back of limbs to stubs of three (3) inches or more in diameter within the Tree's crown to such a degree as to remove the normal canopy and disfigure the Tree.
- (13) "Diameter at breast height" or "DBH" is the diameter in inches of the stem of a standing Tree at four feet and six inches (4' 6") above the ground level.
- (14) "Work Permit" is the permit required for contractors, sub-contractors, or individuals engaging in the business of any Tree work within the Village.
- (15) "10-20-30 rule" means no more than 10% of the Tree population will be of one species, no more than 20% of one genus, and no more than 30% of the tree population will be of one family.

### **913.02 PRIVATELY OWNED TREES**

#### **(a) Duty of Private Property Owner:**

- (1) It shall be the duty of any Property Owner owning or occupying property bordering on Right-of-Way, to prune or cause to be pruned any Right-of-Way 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.

(2) It shall be the duty of any Person owning or occupying property bordering on Right-of-Way, upon which property there are any Trees or Shrubs which are designated by the Administrator or their Agent as dead, dying, diseased, or hazardous or deemed a menace to the health, safety, and welfare of the people of Plain City, to remove or cause to be removed said Tree(s) and/or Shrub(s).

(3) In either of the above situations, the Administrator or their Agent shall send a written notice, by U.S.P.S certified mail with return receipt, to the Property Owner indicating the required action (pruning or removal) to be taken. A period of thirty (30) days from receipt of this letter shall be permitted for the Property Owner to affect the indicated action. Should the Property Owner fail to comply, it shall be lawful for the Administrator or their Agent to enter upon the property and cause such action. The Property Owner shall be charged treble the actual cost of the work. Cash payment shall be made, payable to the Village of Plain City, within thirty (30) days or triple the actual cost of the work shall be assessed to the property taxes.

(b) Village May Remove:

(1) The Administrator or their Agent 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, or other public improvements.

(2) The Administrator or their Agent shall examine or cause to be examined every Tree within 100 feet of any sanitary or storm sewer, drain, manhole, or other public utility line above or below the surface of the ground, which has been reported as dangerous to or causing interference with said sewer, drain, manhole or public utility line, and if found dangerous or causing damage or obstruction of such sewer, drain, manhole or public utility line, the Administrator or their agent shall give to the Property Owner written notice of their findings and an order that such Person remove said Tree or injurious part thereof within sixty (60) days. Service of such notice shall be as described in 913.02(a)(3) of the previous section.

**913.03 PUBLIC TREES**

(a) Village Responsibility:

(1) Whenever it is necessary for the Village to remove a Tree from Village Right-of-Way, the Village shall remove such Trees and replace it or plant, on another Right-of-Way area, an equal number of Trees to the satisfaction of the Administrator or their Agent when feasible.

(2) No Person or Property Owner shall remove a Public Tree for any reason without approval from the Administrator or their Agent. Permits are available to remove a Public Tree at the Plain City Municipal Building and online at the Village website. Should approval be given for the removal, the Person will be billed by the Village of Plain City for the reestablishment of an equal number of diameter inches removed to be planted by the Village in a location of its choosing. Reestablishment cost shall be determined annually per Village of Plain City's Tree Commission. Failure to pay reestablishment fee within 30 days shall result in the fee being assessed to the property taxes.



(3) Whenever any Tree or Shrub is planted or set out in conflict with the provisions of this ordinance and policies and specifications of the Village, the Administrator or their Agent may cause removal of the same without obligating the Village to replace the illegally planted Tree(s).

(b) Tree Planting on Public Property:

(1) All planting of Public Trees shall conform to the current industry Tree planting specifications. All selection of Public Trees shall promote the establishment of quality Tree canopy, thus favoring the use of large stature trees where space accommodates them. All Tree plantings must adhere to the 10-20-30 rule and applied annually when feasible. All selected Tree species to be planted must be on the Approved Species List created by the Tree Commission. Permits for planting on public property are available at the Plain City Municipal Building and online at the Village website.

(c) Planting and Removal of Public Trees – Permit Required:

(1) No Person shall plant or remove a Tree in a Tree Lawn or other Public Place without first obtaining the prior written approval of the Administrator or their Agent. The Village shall require the Property Owner to obtain a Work Permit from the Administrator or their Agent. The Person obtaining the Work Permit shall abide by the standards as set forth in this ordinance and policies and specifications of the Village. The Work Permits are available at the Plain City Municipal Building and on the Village website.

(2) Unless specifically authorized by the Tree Commission or the Administrator or their Agent, no Person shall intentionally damage, cut, carve, top, transplant, place soil or mulch against the trunk/root collar, 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.

(3) In addition to the penalty provided in section 901.99 of the Ohio Revised Code, whoever violates this section is liable in treble damages for the injury caused (ORC 905.51). Replacement cost shall be determined based on the diameter inches at DBH.

## **913.99 PENALTY**

~~In the event a violation of any provision of this chapter is committed, the owner or owners of the building or premises adjacent to the affected right-of-way, any contractor who assists in the commission of such violation and any person, firm or corporation who violates or assists in the violation of any provision of this chapter, or who fails to comply herewith or with any requirement hereof shall, for each and every violation be guilty of a minor misdemeanor. Each day during which a violation or non-compliance occurs or continues shall constitute a separate offense.~~

~~(Ord. 14-98. Passed 5-26-98.)~~

Any Person violating or failing to comply with any provision of this Ordinance shall be subject to paying restitution to the Village for damages incurred, or any special assessments levied as provided for herein in compliance with ORC. 901.51.