

VILLAGE OF PLEASANT HILL

ORDINANCE NO. 1136

ORDINANCE PROVIDING FOR THE REGULATION OF THE PLANTING, MAINTENANCE AND REMOVAL OF TREES LOCATED ON STREETS, PARKS AND OTHER PUBLIC AREAS WITHIN THE VILLAGE OF PLEASANT HILL AND REPEALING ORDINANCE NO. 1100.

WHEREAS: Council has identified a need to further provide for the regulation of the planting, maintenance, and removal of trees located on Village streets, parks and other public places within the Village of Pleasant Hill, Ohio; and

WHEREAS: Council further intends that this Tree Ordinance shall comply with the requirements of The National Arbor Day Foundation "Tree City USA" Program.

NOW THEREFORE, BE IT ORDAINED, by the Council for the Village of Pleasant Hill, Miami County, Ohio, all of its members elected or appointed thereto concurring:

SECTION ONE: DEFINITIONS:

Person: "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

Property Line: "Property Line" means the outer edge of a street or highway.

Property Owner: "Property Owner" means the person owning such property as shown by the Miami County Auditor's Plat of the Village of Pleasant Hill, Miami County, Ohio.

Pruning: "Pruning" means to cut branches, stems, etc. from a plant to improve shape and/or growth.

Public Places: "Public Places" includes all property owned by the Village of Pleasant Hill.

Public Trees: "Public Trees" includes all shade and ornamental trees now or hereafter growing on any street right of way or any public place.

Shrub: "Shrub" means a low-growing woody plant with one or more 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.

Small Tree: "Small Tree" means any tree species which normally attains a full-grown height twenty-five feet (25') or less.

Medium Tree: "Medium Tree" means any tree species which normally attains a full-grown height of forty feet (40').

Large Tree: "Large Tree" means any tree species which normally attains a full-grown height over forty feet (40').

Park Tree: "Park Trees" are trees, shrubs, and all other woody vegetation in public parks and all areas owned by the Village of Pleasant Hill, Ohio, or to which the public has free access as a park.

Street or Highway: "Street or Highway" means the entire width of every public way, easement or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular and pedestrian traffic, and shall include alleys.

Street Trees: "Street Trees" are trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or highways within the Village of Pleasant Hill.

Topping: "Topping" means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Tree: "Tree" means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base; capable of being pruned to provide at least six feet of clear branchless trunk below the crown within five years of planting.

Tree Lawn: "Tree Lawn" means that part of a street or highway right-of-way outside of the portion improved for travel, including the sidewalk and lawn area between the sidewalk and contiguous street or highway.

Section Two. Authority and power

(a) Delegation of authority and responsibility. The Service Superintendent and/or his designee, hereinafter referred to as the "Director", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(b) Coordination among city departments. All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.

(c) Interference. No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

Section Three: Tree advisory board

The City Council hereby creates a “Tree Advisory Board,” hereinafter referred to as the “Board.”

- (a) Membership. The Board shall consist of a minimum of members approved by City Council. Members of the Board will serve without compensation.
- (b) Term of office. Board members shall be appointed for three-year staggered terms. If a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.
- (c) Officers. The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- (d) Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.
- (e) Duties. The Board shall act in an advisory capacity to the Director and shall:
 - (1) Coordinate and promote Arbor Day activities;
 - (2) Review and update a five-year plan to plant and maintain trees on city property;
 - (3) Support public awareness and education programs relating to trees;
 - (4) Review city department concerns relating to tree care;
 - (5) Submit an annual report of its activities to the city council;
 - (6) Assist with the annual application to renew the Tree City USA designation;
 - (7) Develop of a list of recommended trees for planting on city property, and a list of prohibited species; and
 - (8) Other duties that may be assigned by City Council.

Section Three: Insurance Coverage: No person or firm shall engage in the business or occupation of pruning, treating, or removing tees in streets right-of-way, park, or public places within the Village without providing evidence of possession of liability insurance in the minimum amounts of \$1,000,000.00 for property damage and \$100,000.00 bodily injury indemnifying the Village or any person injured or damaged resulting from the

pursuit of such endeavors as herein described. This insurance coverage requirement also applies to contactors used by the Village of Pleasant Hill, when a tree is removed from private property as described in Section Two of this Ordinance.

Section Four: Tree Planting

A. The prohibited trees for planting in Village of Pleasant Hill streets right-of way is listed in the attachment "Prohibited Tree List". Trees that are prohibited may be permitted by variance or permit from Village Council.

B. Distances and Clearance:

1. The spacing of new trees in the streets right-of-way shall follow the following regulations: fifty feet (50') between large trees, thirty-five feet (35') between medium trees, and twenty-five feet (25') between small trees.
2. Size of trees allowable in curb lawns: curb lawn of two feet (2') - only small trees are allowed; curb lawn of three feet (3') - small and medium trees are allowed; and curb lawn of four feet (4') or greater; small, medium, and large trees are allowed.
3. All trees should be planted a minimum of ten feet (10') from all signs, streetlights, utility poles and fire hydrants.
4. All new trees should be planted a minimum of twenty feet (20') from the edge of pavement of all street intersections.
5. All trees shall be a minimum of ten feet (10') from driveways.
6. Only small trees will be allowed to be planted under utility lines provided that when the tree is fully grown it does not obstruct, impede, or interfere with the lines.
7. All trees shall be a minimum of four feet (4') from underground water line, sewer line, transmission line or other utility.

Section Five: Tree Maintenance and Removal

A. Public Tree Care: The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes squares and public grounds, as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of such public grounds. Council may remove or cause or order to be removed, any 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 fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section Four of this ordinance. Pruning, planting, or removing of public trees should be done according to the Best Management Practices companion International Society of Arboriculture (ISA) publications.

B. Topping Public and Private: It shall be unlawful, as a normal practice, for any person or firm to top any street tree, park tree, or other tree on public property without prior approval from the Village. 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 so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Ordinance at the determination of the Village.

C. Pruning, Corner Clearance: Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not severely obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of twelve feet (12') above street surface or ten feet (10') above the sidewalk surface. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a threat to the safety of the public. The Village of Pleasant Hill shall have the right to prune portions of any tree or shrub on private property as follows:

1. Where it encroaches on public property.
2. When it interferes with the proper spread of light along the street from a streetlight.
3. When it interferes with visibility of any traffic control device or sign or sight triangle at intersections.

Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements.

D. Dead or Diseased Tree Removal on Private Property: Trees, shrubs, plants, or plant parts which are dead or diseased, when such trees pose a hazard to life and property, or harbor insects or disease which potentially threaten other trees within the Village constitutes cause for removal contingent upon approval by an ISA certified arborist. The Village Council may notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village of Pleasant Hill shall have the authority to remove such trees and certify the cost of removal to the Miami County Auditor to be included as an assessment on the owner's property tax duplicate.

E. Removal of Stumps: All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Property owners or contractors shall call the Ohio Public Utilities Services' "call before you dig" number prior to removing a stump to ensure that utility lines are not near the stump.

F. Harming of Public Trees: It shall be a violation of the provisions of this Ordinance for any person to abuse, destroy, mutilate, or otherwise damage any tree, plant or shrub in any public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill or other things to or on any tree

growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with roots, trunks, or leaves.

G. Protection of Public Trees: No person shall plant, remove, cut above ground, prune, or disturb any tree on any street, park, or other public place without written permission of the Village of Pleasant Hill. The person receiving such approval shall abide by the standards set forth in this ordinance.

SECTION SIX: Obstruction With Village Officials and/or Agents It shall be unlawful for any person to prevent, delay or interfere with Village of Pleasant Hill employees or other duly authorized agents of the Village of Pleasant Hill while engaging in and about planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds when said actions were previously authorized by the Village of Pleasant Hill Council.

SECTION SEVEN: Penalty That any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to provision of this Ordinance, shall be guilty of a minor misdemeanor. Each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation or death of a tree, shrub or other plant located on Village-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant, shall be borne by the person in violation.

SECTION EIGHT: Declaration It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this Council, and all deliberations of this Council and any of its committees that resulted in such formal actions were meetings open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

WHEREFORE, this Ordinance shall take effect and be in force from and after the earliest time permitted by law.

PASSED this 11th day of July, 2022.

Paul Wagner, Village Solicitor

Judith F. Barga, Mayor

Alisa Weber., Fiscal Officer

ATTACHMENT ONE
ORDINANCE NO. 1100
PROHIBITED TREE LIST
FOR RIGHT-OF-WAYS WITHIN THE VILLAGE LIMITS

- A. Apple.....Fruit objectionable on street; insect pests; disease-prone
- B. Birch.....Susceptible to disease
- C. Black Locust.....Insect pests
- D. Box Elder..... Breakage and insect pests
- E. Catalpa.....Coarse; insect pests; fruit (seed pods); objectionable on street
- F. Moline Elm.....Breakage
- G. Siberian Elm (Chinese Elm) Breakage
- H. European Mountain Ash..... Susceptible to being blown over by wind
- I. Evergreens..... Cause severe obstructions to vision of traffic and signs
- J. Ginkgo (Female)..... Offensive smelling berries
- K. Horse Chestnut..... Leaf blight; messy
- L. Mulberry.....Fruit objectionable on street
- M. Poplars. Breakage; insect and disease-prone; root system clogs sewers and pipes
- N. Silver Maple..... Breakage; root system clogs sewers and pipes
- O. Tree of Heaven..... Coarse; breakage
- P. Tulip Tree..... Insect pests; leaves drop during dry periods
- Q. Willows... breakage; insect and disease-prone; root system clogs sewers and pipes
- R. Ash Tree — Green, White, Blue, Black, and Pumpkin..... Ash bore
- S. Buckeye..... Fruit (nuts) objectionable on street
- T. Any other type of tree having similar problems as listed above