

ORDINANCE NO. 59-2009

Offered by All of Council

AN ORDINANCE ENACTING A NEW CHAPTER 155 OF THE ADMINISTRATIVE CODE AND REPEALING EXISTING CHAPTERS 152, 155 AND 915 OF THE CODIFIED ORDINANCES PERTAINING TO PUBLIC TREE AND LANDSCAPE COMMISSION

WHEREAS, the Service Director has recommended consolidation of the provisions in existing Chapters 152, 155 and 915 into a new Chapter 155 pertaining to Public Tree and Landscape Commission; and

WHEREAS, this Council believes that it is important to adopt these changes for the efficient administration of the Landscape Commission and protection of public trees in the Village.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That a new Chapter 155 in the Administrative Code be enacted to read as follows:

“CHAPTER 155
Public Tree and Landscape Commission

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| 155.01 Purpose. | 155.13 Authority of Village Service Director to enter private premises. |
| 155.02 Definitions. | 155.14 Appeal from order of the Village Service Director. |
| 155.03 Public Tree and Landscape Commission. | 155.15 Landscape plan. |
| 155.04 Tree Care Program | 155.16 Streetscape plan. |
| 155.05 Damage to trees and shrubs. | 155.17 Arboricultural specifications and standards. |
| 155.06 Fastening material to trees and shrubs. | 155.18 Unauthorized tree removal or destruction. |
| 155.07 Public utilities. | 155.19 Severability. |
| 155.08 Planting, removal, maintenance and protection of trees and shrubs. | 155.20 Cost of planting, removing, maintaining and protecting trees, shrubs and flora. |
| 155.09 Power to plant, remove, protect and maintain trees and shrubs. | 155.21 Contract and consulting services. |
| 155.10 Public nuisance. | |
| 155.11 Abatement of nuisance. | |
| 155.12 Interference with Village Service Director. | |

155.01 PURPOSE.

It is the policy of the Village of Richfield, Ohio to regulate and control planting, removal, maintenance and protection of trees, shrubs, and flora along Village public ways. To establish public landscaping by physically improving and creating an environment that is both functional

and aesthetically pleasing. To guard against dangerous conditions which may result in injury to persons using the public areas of the Village. To protect trees, shrubs, and plants in public areas from undesirable and unsafe planting, removal, maintenance and protection practices; and guard all trees, shrubs and flora within the Village against the spread of disease or pest. The provisions of this chapter shall apply to all trees, shrubs, and flora presently or hereafter planted in or upon public areas; to all trees and shrubs planted in or upon private premises which shall endanger the life, health or safety of persons or property.

155.02 DEFINITIONS.

- (a) "Public way" includes all public streets, roads, boulevards, alleys and sidewalks.
- (b) "Public area" includes all public ways, parks, and other lands owned, controlled or leased by the Village.
- (c) "Landscape" includes all manmade, mineral or plant material used in public areas.
- (d) "Streetscape" includes all manmade, mineral or plant material used in public ways.
- (e) "Trees and/or shrubs" includes all woody vegetation presently or hereafter planted on any public areas.
- (f) "Flora" includes all annual or perennial non-woody plant material used in public areas.
- (g) "Maintenance" and "protection" includes all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below ground level.

155.03 PUBLIC TREE AND LANDSCAPE COMMISSION.

(a) Appointment. The Village of Richfield Public Tree and Landscape Commission is composed of a five member body appointed and serving as outlined in Resolution 29-1993.

(b) Powers and Duties. The Public Tree and Landscape Commission shall have the following general powers and duties:

- (1) To recommend to Council and the Planning and Zoning Commission a streetscape tree and shrub planting and maintenance plan for the public ways of the Village.
- (2) To recommend to Council and the Planning and Zoning Commission landscape plans for the public areas of the Village.
- (3) To recommend to Council applications for grants and financial assistance from outside sources.
- (4) To enlist the volunteer help of community organizations and individuals within the Village.
- (5) To establish a computer program that will aide the Service Director in the ongoing maintenance of the trees and shrubs.
- (6) To enlist a qualified Service Department personnel to attend meetings and maintain a computerized inventory and maintenance program on the trees and shrubs to aid the Service Director in the ongoing plantings, maintenance, removal of public plants. Specifications for qualifications of Service Department personnel shall be established by the Public Tree and Landscape Commission.
- (7) To advise and offer professional guidance to the Service Director through the attending personnel and written work recommendations passed by the Public Tree and Landscape Commission.

(8) To advise the Park and Recreation Board in species selection of trees, shrubs and flora within the public parks of the Village.

(c) Reimbursement of expenses. The Chairman of the Tree Commission shall be reimbursed for expenses in an amount not to exceed fifteen dollars (\$15.00) for each regularly scheduled meeting attended. All other board members shall be reimbursed for expenses in an amount not to exceed ten dollars (\$10.00) for each regularly scheduled meeting attended.

155.04 TREE CARE PROGRAM.

(a) A comprehensive community tree care program shall be developed which would be funded by money currently being used for tree care by Village along with the volunteer efforts of the community matched by applicable State grant monies if available.

(b) This plan would consider the aesthetic, architectural, historic and climatic factors in the selection of species that are appropriate to the areas in which they are to be planted. It would rate site areas both in terms of need and in terms of providing the maximum visual impact and would prioritize the work to be done accordingly. The key to the plan's success is the Commissions' ability to harness the energies of Richfield's many community organizations and individual volunteers working in partnership with the Village Service Department, local businesses and horticulture centers interested in improving the appearance of our community.

155.05 DAMAGE TO TREES AND SHRUBS.

No person in any public area of the Village shall break, injure, mutilate, kill or destroy any tree or shrub; permit any animal under his control to do so; permit any fire to injure any portion of any tree or shrub; permit any toxic chemical to seep, drain or be emptied on or about any tree or shrub. No person shall excavate or do any potentially damaging work within the dripline of a public tree without obtaining a written permit from the Village Service Director. During building operations the builder shall erect suitable protective barriers around public trees and shrubs outside of the dripline of the tree canopy.

155.06 FASTENING MATERIALS TO TREES AND SHRUBS.

No person shall fasten any sign, rope, wire or other materials to or around or through any public trees or shrubs without obtaining a written permit from the Service Director, except in emergencies such as storms or accidents.

155.07 PUBLIC UTILITIES.

Public utility work affecting trees or shrubs shall be limited to the actual necessities of the services of the company and such work shall be done in a neat and professional manner and according to the arboricultural specifications and standards set forth in Section 155.17. The Village Service Director may supervise the work performed.

155.08 PLANTING, REMOVAL, MAINTENANCE AND PROTECTION OF TREES AND SHRUBS.

All trees or shrubs in any public area shall be planted, removed, maintained and protected according to the arboricultural specifications and standards as set forth under Section 155.16.

155.09 POWER TO PLANT, REMOVE, PROTECT AND MAINTAIN TREES AND SHRUBS.

The Service Director shall have the authority to plant, remove, maintain and protect trees, shrubs and flora on all public areas as may be advised by the Public Tree and Landscape

Commission according to a streetscape or landscape plan. These actions may become necessary to insure the safety or preserve the beauty of such grounds. By mutual agreement with the property owner, the Service Director may authorize the replacement of trees and/or shrubs on private property that were removed or were permanently damaged by necessity of installing or maintaining public utilities or making other public improvements either on the private property or adjacent to it. The Village shall not be held responsible for future maintenance and offers no guarantees of plant survival after the initial planting.

155.10 PUBLIC NUISANCE.

Any tree or shrub or part thereof growing upon private or public property which is interfering with the use of any public area; infected with an infectious plant disease; or endangers the life, health or safety of persons or property is declared a public nuisance.

155.11 ABATEMENT OF NUISANCE.

(a) Trees and Shrubs on Public Areas. If the Village Service Director shall determine, with reasonable certainty upon inspection or examination, any public nuisance tree or shrub, as herein defined by Section 155.10, exists in or upon any public area in the Village, he shall immediately cause it to be treated, trimmed, removed or otherwise abated in such manner as to destroy or prevent the spread of the nuisance. The manner in which the nuisance shall be abated shall be determined by the Village Service Director who may be advised by the Public Tree and Landscape Commission.

(b) Trees and Shrubs on Private Premises. If the Service Director shall determine with reasonable certainty upon inspection or examination that any public nuisance shrub or tree, as herein defined by Section 155.10, exists in or upon any private premises, he shall in writing notify the owner or tenant having charge of such premises. Within thirty days after the issuance of said notice, said person shall cause the treatment, trimming or removal and destruction of trees or shrubs destroyed pursuant to this chapter. In case the owner or tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice within thirty days after receiving it, the Service Director shall cause the removal, treatment or trimming of said nuisance tree or shrub. The expense thereof shall be a charge upon the real property of which said tree or shrub is located pursuant to applicable Village ordinances.

155.12 INTERFERENCE WITH VILLAGE SERVICE DIRECTOR.

No person shall prevent, delay or interfere with the Village Service Director or any person under his employment in the execution or enforcement of this chapter.

155.13 AUTHORITY OF VILLAGE SERVICE DIRECTOR TO ENTER PRIVATE PREMISES.

The Village Service Director or his representatives, after giving advance notice to the property owner or tenant having charge, shall have the authority to enter upon private premises at reasonable times for the purposes of examining and inspecting any suspected public nuisance tree or shrub. All nuisance trees or shrubs to be removed under the provisions of Section 155.10 may be appropriately marked by the Village Service Department.

155.14 APPEAL FROM ORDER OF THE VILLAGE SERVICE DIRECTOR.

A person who receives an order from the Village Service Director and objects to all or part thereof, may, within eight days of receipt thereof, notify the Public Tree and Landscape Commission and Village Service Director, in writing, of the nature of the objection and request a

hearing thereon. Within eight days of receipt of such notice of appeal, the Public Tree and Landscape Commission shall schedule a hearing before said Commission, to hear the objection. The hearing shall be held within eight days of the notice to the appellant. The Village Service Director shall be present at such hearing. The appellant is entitled to representation by counsel. Within eight days after such hearing the Public Tree and Landscape Commission shall, in writing, notify the appellant and the Village Service Director of its decision. The Commission may affirm, cancel or modify the order in its discretion, to best conform to the intent of this chapter.

155.15 LANDSCAPE PLAN.

A Landscape Plan shall be a comprehensive landscape design that is both functional and aesthetically pleasing to a given Village public area under review. A written evaluation of all space and site factors such as: nature of soil, drainage, environmental hazards, public safety, functional use, screening, enhancement of adjacent private premises, historical factors, and any other site specific variable which will aid the determination of hardscape surfaces, lighting and plant species selection best suited to a particular planting site. The evaluation of these factors shall be made by the Village Public Tree and Landscape Commission. A scaled site plan drawing and landscape design will be submitted for review and approval to the Public Tree and Landscape Commission before implementing.

155.16 STREETSCAPE PLAN.

The Streetscape Plan shall consist of Village wide street-by-street written evaluation of all space and site factors such as nature of soil, environmental hazards, public safety, proximity to utilities, roadway, sidewalks, private premises, historical factors and any other site specific variable which will aid in the determination of tree or plant species best suited to a particular planting site in regard to growing habits, shape, form, health, disease and pest resistance, and general tree maintenance. The evaluation of these factors and recommendations of plant species shall be made by the Village Public Tree and Landscape Commission.

155.17 ARBORICULTURAL SPECIFICATIONS AND STANDARDS.

The following specifications and standards are hereby established for the planting, pruning, root pruning and removal of trees, and shrubs in streets, parks and public areas in the Village:

(a) Planting.

- (1) The Public Tree and Landscape Commission will determine the number and species of trees and shrubs to be planted annually.
- (2) All trees will be not less the one and three-fourths inches in caliper (ANSI Z 60.0-1990 American Standard for Nursery Stock).
- (3) All trees shall have straight trunks and be well branched. There shall be no disease or injury apparent. The roots and top shall be well developed and characteristic of the species.
- (4) No tree shall be planted closer than two feet from the curb line or outer line of the sidewalk. All trees shall be planted with a spacing of between thirty and 100 feet from each other depending on the species of the tree.
- (5) Adequate water shall be supplied for the first two years after transplanting.
- (6) Where soil is of poor quality or does not have the proper drainage, good soil and drainage shall be provided in an amount sufficient to insure proper growth.

(7) No tree shall hereafter be planted at or within twenty feet of an intersection.

(c) Pruning.

- (1) All trees and shrubs shall be pruned to preserve their health and appearance and to make adjustments which will increase their longevity in an urban environment.
- (2) All trees and shrubs which have branches overhanging a public street, shall have said branches trimmed to a clearance height of fourteen feet.
- (3) All trees and shrubs on private or public property, which have branches overhanging a public sidewalk shall have said branches trimmed to a clearance height of seven feet.
- (4) The Service Director may waive the provisions of this section for newly planted trees if he determines they do not interfere with the public travel, obstruct the light of any streetlight, or endanger public safety.
- (5) All deadwood, stubs, broken branches, badly formed branches, disease-infested and insect-infested branches shall be removed.
- (6) Contract tree care shall be issued to certified arborists or private citizens and contractors who are qualified to perform the work using standard arboricultural practices according to ANSI A300-1995.

(d) Root Pruning. Whenever any and all types of construction activity being performed within or in close proximity to public right-of-way and easements, comes within ten feet of a tree, a written permit must be issued from the Village Service Director prior to excavation. The Service Director may issue the following guideline:

- (1) For trees measuring twelve inches in diameter (equivalent thirty-eight inch circumference) or less, soil excavation work or root cutting shall not occur closer than three feet from the outer bark of the tree. The circumference of the tree here and elsewhere in these requirements shall be taken two feet above ground level. For multi-stemmed trees, the circumference shall be taken at the narrowest point within the first two feet above the ground surface.
- (2) For trees measuring greater than thirty-eight inches in circumference, soil excavation work or root cutting shall not occur closer than the distance measured by the circumference of the tree, or a maximum distance of six feet, whichever is less.
- (3) Soil excavation work is permitted closer than the distance parameters established under the above two categories, provided all excavation of soil is accomplished by hand shovel or auger, and no roots greater than two inches in diameter are severed.
- (4) In the event removal becomes necessary, trees removed by the Village or by Village contract will be removed and replaced by the Village Service Department, at cost to the Village or department authorizing the construction. Trees required to be removed by private contractors, investor owned public utility companies, or by others who are permitted to perform maintenance and repair work in public right-of-way and easement areas shall remove said trees at their cost and effort and furthermore, shall replace that tree with a suitable size and variety per the requirements of the Public Tree and Landscape Commission.

- (5) In the event removal of the tree is required by private and public utilities, contractors and others under life threatening or related emergency situations, removal of the tree(s) is authorized without written Village authorization, providing proper follow-up written documentation is provided and replacement of the tree(s) is scheduled to the satisfaction of the Public Tree and Landscape Commission.
- (e) Tree Removal.
- (1) Decision to remove trees or shrubs will be made by the Village Service Director as may be advised by the Public Tree and Landscape Commission. Candidates for removal are those trees or shrubs which are dead, diseased or life endangering. Other trees may be removed upon the proper conduct of a public meeting with the Commission.
- (2) Storm damaged trees shall be restored and made safe according to the following priorities:
- A. Remove immediate life hazards;
 - B. Remove trees and branches from electric lines to enable linemen to restore electric service;
 - C. Clear all trees and limbs obstructing roadways;
 - D. Remove large trees which present a hazard to private property or other trees;
 - E. Brush and debris will be left at the roadside until it can be cleaned up during regular working hours.
- (3) The Village Service Department may without a hearing, cut or remove public shade trees less than one and one-half inches in diameter which obstructs or endangers travelers or buildings.
- (4) All public trees or shrubs which are marked for cutting shall be completely removed from the growing site and disposed of in an authorized manner. The stump shall be ground down to a depth suitable for future planting of trees or flora.

155.18 UNAUTHORIZED TREE REMOVAL OR DESTRUCTION.

In the event a public tree(s) is removed or damaged by a person, firm, corporation or agency without permission of the Village Service Director, these trees shall be protected and replaced with the following replacement policy:

- (a) Any person, firm, corporation or agency that in the course of construction intends to remove any tree one and one-half inches or greater in caliper within the Village public area, shall post a bond with the Village Service Director to ensure that within ninety days after completion of construction all trees removed or severely damaged shall be replaced on a caliper inch-for-inch basis at the expense of the person, firm, corporation or agency.
- (b) The amount of the bond shall be determined by the Village Service Director and shall be sufficient to cover the cost of replacement. The bond shall be held for one year from the date of planting to ensure survival of the replacement tree(s).
- (c) Species and caliper of replacement trees shall be determined in consultation with the Public Tree and Landscape Commission. The total caliper of all replacement trees planted shall equal or exceed the total caliper of all trees severely damaged or removed.

- (d) Replacement trees shall be balled and burlapped and not less than one and three-fourths inches caliper. Planting shall be in keeping with above planting standards in Section 155.17 and shall take place in the spring or fall determined by the Village Service Director.
- (e) Any person who removes or severely damages a public tree without a permit shall be subject to a fine of up to five hundred dollars (\$500.00) per tree.

155.19 SEVERABILITY.

If any provisions of this chapter shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this chapter. The Council of the Village of Richfield declares they would have adopted each and every provision of this chapter separately regardless of the possible invalidity of any part thereof.

155.20 COST OF PLANTING, REMOVING, MAINTAINING AND PROTECTING TREES, SHRUBS AND FLORA.

The entire cost of planting, removing, maintaining and protecting trees, shrubs and flora on all public areas of the Village, when done by the Service Department employees or their contractors at the direction of the Village Service Director, shall be borne by the Village out of the Service Department budget and funds donated or granted specifically for this purpose. When a private party other than the Village plants, removes, maintains or protects trees, shrubs or flora, pursuant to Sections 155.07, 155.11, 155.17 and 155.18, the party shall incur all expenses.

155.21 CONTRACT AND CONSULTING SERVICES.

The Public Tree and Landscape Commission or Village Service Department reserves the right to determine the specifications and qualities of contract services, define the scope of work, type of contract, and the time frame in which contract services are rendered.”

SECTION 2. That as of the effective date of this Ordinance, existing Chapters 152, 155, and 915 of the Codified Ordinances be, and the same hereby are, repealed.

SECTION 3. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 11/3/09

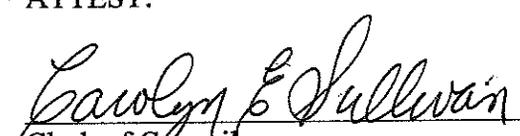


 President of Council



 Mayor

Dated: 11/3/09

ATTEST:


 Clerk of Council