

Village of Mantua, Ohio
ORDINANCE 2024-43

**AN ORDINANCE AMENDING CHAPTER 909 OF THE CODIFIED ORDINANCES OF
THE VILLAGE OF MANTUA REGULATING TREES AND WEEDS, AND
DECLARING AN EMERGENCY.**

WHEREAS, the Village Council repealed Chapter 147 Shade Tree Commission; and

WHEREAS, the Village hereby intends to merge the responsibilities and regulations in Chapter 147 into Chapter 909; and

WHEREAS, the Village Administrator shall take on the responsibilities of the Tree Commission; and

WHEREAS, it is in the public's interest to regulate trees and weeds in the Village.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Mantua, Ohio, that:

SECTION 1. The Chapter 909 of the Codified Ordinances of the Village of Mantua is hereby amended as follows:

909.01 PURPOSE.

It is declared to be in the public interest that the removal of trees and/or parts thereof and shrubs located abutting sidewalks and/or streets within the Village be regulated in the manner described herein.

(Ord. 1988-10. Passed 3-14-88.)

909.02 TRIMMING TREES AND SHRUBS.

The owner of every lot or parcel of land within the Village upon which a tree, plant or shrubbery stands with any part thereof upon or overhanging a public street or sidewalk shall conform to the regulations provided in Chapter 909 of the Codified Ordinances or the Village shall cause the tree, plant or shrubbery to be trimmed or cut down and removed in accordance with the regulations and assess the costs against the owner of the lot or parcel of land. Costs for the removal of trees pursuant to Section 909.03 shall be assessed or shared as set forth therein.

- (a) The owner shall trim, or cause to be trimmed, any tree, plant or shrubbery so that a clear height of ten feet between the lowest branches and the street or sidewalk is maintained.
- (b) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or parts thereof, so that it shall not fall to the street or sidewalk.
- (c) The owner shall cut down or remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles or pedestrians using the street or sidewalk or located within the vicinity of such nuisance.

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909.03 WEEDS.

(a) No person, firm or corporation shall permit the growth of obnoxious weeds or other vegetation to the injury of any adjoining owner, upon lots or lands located in the Village.

(b) Any person, firm or corporation permitting the growth of weeds or vegetation as recited in subsection (a) may be ordered to cut and remove the same by the Police Department of the Village, and upon such owner's neglect or refusal to comply with the order within a period of ten days, the Police Department shall have the right to cause the weeds to be cut and destroyed and the expense thereof shall be charged to the owner of the property so affected.

(c) Upon the neglect or refusal of the owner of the property to pay the charge as specified in subsection (b) hereof, the Fiscal Officer shall be and hereby is authorized to certify the same to the Auditor of Portage County, Ohio, to be collected as other taxes.

909.04 DUTIES AND RESPONSIBILITIES.

(a) It shall be the responsibility of the Village Administrator to develop, administratively maintain a written plan to be known as the Master Tree Plan.

(b) The Village Administrator, as well as the Council and citizens of the Municipality in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate 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 a tree planting program and activities for the Municipality. The Village Administrator shall work in conjunction with civic and public interest groups devoted to tree care and preservation.

(c) The Village Administrator shall have the authority to investigate and recommend reasonable conditions to the granting of a permit in accordance with the terms of this Chapter.

909.05 MASTER TREE PLAN.

The Village Administrator 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(s) 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 Village Administrator shall have the responsibility of inventory (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 Village Administrator 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.

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909.06 TREE SPECIES TO BE PLANTED.

The Village Administrator 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 Village Administrator.

909.07 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 909.06. No trees may be planted closer to any curb, curblines or sidewalk than the following: large trees - 4 feet; medium trees – 3 feet; and small trees - 2 feet.

909.08 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No trees shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No tree shall be planted closer than ten feet from any fire hydrant.

909.09 UTILITIES.

No public tree other than those species referred to as small trees in Section 909.06 may be planted under or within 10 lateral feet of any overhead utility wire.

909.10 PUBLIC TREE CARE.

The Village shall have the 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 Village Administrator 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. This section does not prohibit the planting of a tree along streets by property owners providing that the selection of said tree is in accordance with Section 909.08 and Section 909.09. No property owner shall plant a tree within the right-of-way without first obtaining a permit from the Village Administrator.

909.11 REMOVAL, REPLANTING AND REPLACEMENT OF PUBLIC TREE.

No person shall remove a public tree for the purpose of construction or any other reason without the written permission of Council, with the advisement of the Village Administrator. Village Council, with the advisement of the Village Administrator may require replacement of a removed tree as a condition to said approval. Such replacement shall be in accordance with the species listed in Section 909.05. The person or property owner shall bear the cost of removal and replacement of all public trees remove.

909.12 OBSTRUCTIONS.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of

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pedestrians on sidewalks, obstruct the vision of traffic signs or obstruct the view of any street intersection. Said persons shall remove all dead, diseased or dangerous trees, or broken decayed limbs which constitute a menace to the safety of the public. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks, and fourteen (14) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

- (a) Notice to Prune. Should any person or persons owning real property bordering on any street fail to prune trees or herein above provided, Council shall order such person or persons, within thirty (30) days after receipt of written notice, to so prune such trees.
- (b) Order Required. The order herein shall be served by certified mail to the last known address of the property owner.
- (c) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Village to prune such trees and assess the property owner for the cost of services rendered.

909.13 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The Village may remove any trees on private property, whose Hazard Zone falls within the right-of-way or of Village property, within the Village, when such trees constitute a hazard to life and property.

- (a) Notice to Remove. Should any person or persons fail to remove trees as herein provided, Council shall order such person or persons within thirty (30) days after receipt of written notice, to remove such trees.
- (b) Order Required. The order herein shall be served by certified mail to the last known address of the property owner.
- (c) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time it shall be lawful for the Village to cause the removal of such trees.
- (d) Costs.
 - (1) In the case of a tree voluntarily removed by a property owner pursuant to notice or order under this section, the Village and the property owner shall each obtain an estimate for the work, and the lower estimate shall be used. The Village will reimburse the property owner one-half (1/2) of the costs reflected on the lower estimate upon completion of the work, including stump-grinding.
 - (2) In the event that the Village is required to undertake the required removal itself, the Village shall bill, assess or otherwise recover from the property owner for one-half (1/2) of the costs incurred by the Village for such removal in any manner permitted by law.
 - (3) In cases under (1) or (2) above, where the tree removal can be safely undertaken by Village personnel with Village equipment, the cost to be shared between the Village and the property owner shall be the cost for any work that cannot be performed by Village personnel.

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909.14 ABUSE AND/OR MUTILATION OF PUBLIC TREES.

Unless specifically authorized by Council, no person or firm shall intentionally damage, cut, carve, transplant, whether above or below ground, or transplant or remove any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any public tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or heat therefrom will injure any portion of any public tree. No person shall pour salt water or a chemical or chemicals upon any street right-of-way in such a way as to injure any tree planted or growing thereon. The Village shall not be restricted in the use of anti-icing materials.

909.15 PLACING MATERIALS ON PUBLIC PROPERTY.

No person shall deposit, place, store or maintain upon any public place of the Village, any stone, brick, sand, concrete or other materials which may impede the tree passage of water, air and fertilizer to the roots of any public tree growing therein, except by written approval of Council.

909.16 PROTECTION OF PUBLIC TREES.

All public trees located near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high placed at the dripline. All laborers, building material, dirt or other debris shall be kept outside this barrier. Council may permit a variance in cases where the barrier would impede the flow of traffic on a street, private street or driveway and where the dripline overhangs a building or permanent structure. No person shall excavate any ditches or trenches within the dripline of a public tree without first obtaining the written approval of Council.

909.17 PUBLIC UTILITY COMPANIES.

(a) No public utility shall trim or remove trees located within the public right of way within the Village of Mantua, Ohio without first providing not less than 72 hours advance notice of said tree trimming or tree removal to the Village of Mantua, Ohio.

(b) Said notice shall be accomplished by written notice to the Village Administrator.

(c) The requirement for advanced notice shall not be required in emergency service restoration work, when said emergency service restoration work is due to acts of God or acts of nature.

(d) Any public utility failing to provide advanced notice prior to removing or trimming trees located within the public right of way within the Village of Manna, Ohio, shall be guilty of unlawful removal or trimming of trees, and upon being found guilty of such violation, shall be fined five hundred dollars (\$500.00). In addition, any unnecessary injury, mutilation or death of a tree is caused as a result of the failure to provide notice as required by this section, the cost of repair or replacement of such tree shall be ordered in addition to the fine set forth above.

909.18 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

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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 Village Administrator.

909.19 MOVING LARGE OBJECTS.

No person shall move any building or other large object that may injure public trees, or parts thereof, without first obtaining the written approval of the Council with the advisement of the Village Administrator.

909.20 INTERFERENCE WITH THE VILLAGE ADMINISTRATOR.

No person shall hinder, prevent, delay or interfere with the Village Administrator, or any of its agents, while engaged in carrying out the execution or enforcement of this chapter on public or private property; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.

909.21 PERMIT TO MAINTAIN OR REMOVE TREES.

(a) Any property owner maintaining and/or removing public or private trees whose hazard zone falls upon public land shall first obtain a permit issued by the Village in accordance with the requirements of this section.

(b) A permit issued by the Village shall be required of any private property owner maintaining or removing any public or private tree whose hazard zone falls upon public land. The requirements for said permit shall be as follows:

- (1) The permit fee shall be in accordance with the existing rate schedule as ordained by ordinance.
- (2) Before the permit is issued, each private property owner shall first file evidence verifying home owners insurance coverage for bodily injury or 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 maintenance or removal of said tree.

909.22 REVIEW BY COUNCIL.

Council shall have the right to review the conduct, acts and decisions of the Village Administrator.

909.23 APPEAL PROCEDURE.

Any adjustment of the standards required by this chapter or an appeal of a decision of the Village Administrator shall be taken to Council. Council upon receipt of a written request, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being sought, reasons such adjustments or requirements are being sought, reasons such adjustments are warranted and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. Council may approve, modify or deny the requested adjustment, based upon the protection of public interest, preservation of the intent of this chapter and possible unreasonable hardships involved in the case. Council

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shall act on the application as expeditiously as possible and shall notify the applicant in writing within 5 days to take the action.

909.24 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 the 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 tree 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.

SECTION 2. Chapter 909 of the Codified Ordinances of the Village of Mantua, as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were adopted 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 is hereby declared an emergency measure in order to establish a necessary policy for the Village of Mantua at the earliest time possible, and shall become effective immediately upon proper approval of this Council.

PASSED in Council this _____ day of _____, 2024.

ATTEST:

Tammy Meyer, Mayor

Maryann Fabian, Fiscal Officer

I hereby certify the above Ordinance was duly posted as required pursuant to Mantua Village Codified Ordinances Section 123.01 for no less than two consecutive weeks, beginning on the _____ day of _____, 2024.

Maryann Fabian, Fiscal Officer

Approved as to Legal Form

William D. Mason, Solicitor