

ORDINANCE NO. 2012-30-S&S

**ORDINANCE ESTABLISHING A TREE ADVISORY BOARD AND
A COMPREHENSIVE TREE MAINTENANCE PROGRAM FOR GREENHILLS**

WHEREAS, Greenhills has been awarded Tree City USA status from the National Arbor Day Foundation every year since 1985 and desires to continue to enhance its programs for the care of public trees;

WHEREAS, Greenhills recognizes that its tree canopy is a vital asset and the Village has recently updated its tree inventory and desires, among other things, to insure the continued existence of a diversity of tree species and age classes; and

WHEREAS, Council for the Village of Greenhills desires to establish a Tree Advisory Board to assist the Village with its comprehensive tree maintenance program involving the replacement, maintenance, and/or protection of public trees within the public right-of-way in Greenhills;

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

SECTION 1. PURPOSE

The purpose of this Ordinance is to a) promote and protect the beauty and environmental qualities of trees in Greenhills by providing for updated regulations of the planting, maintenance, preservation and removal of trees in Greenhills; and b) establish a Tree Advisory Board to promote new and existing tree programs in support of urban forest management.

SECTION 2. DEFINITIONS

The following words and phrases shall have the following meanings ascribed to them respectively:

ARBORIST. A person with expertise and certification and training in the care of trees.

CALIPER. The caliper of a tree shall be determined at 4 ½ feet from the ground, commonly known as diameter at breast height (DBH).

CONTRACTOR. Any person or entity hired by a private citizen, business, not within the employ of the village, which is hired for the purpose of providing a specific service.

MUNICIPAL MANAGER. The appointed or acting Municipal Manager or their designee.

MUNICIPALITY. The Village of Greenhills.

PARK. Public parks having individual names and all undeveloped areas with trees, plants and/or vegetation owned by the Village.

PLANTS. Plants other than trees or vegetation.

Village of Greenhills
Ordinance No. 2012-30-S&S

PRIVATE PROPERTY. All real estate within the Village of Greenhills except real estate that is owned, leased, controlled or occupied by the Village of Greenhills.

PRIVATE TREES. Trees located on private property.

PROPERTY OWNER. Any one or more of the following:

1. The owner or owners in fee simple of a parcel of real estate, or a life tenant of such realty, if any; or
2. The owner or owners of record as reflected by current records in the Hamilton County Auditor's Office; or
3. The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

PUBLIC PLACE. A public place shall mean any park, street, median, developed or undeveloped municipally owned property, or public right-of-way dedicated to the municipality.

PUBLIC RIGHT-OF-WAY. A public easement that extends from the street into a portion of the property on either side of that street or roadway.

PUBLIC TREES. All trees located within publicly owned parks or on municipal properties and those trees located within all public right-of-ways in the village including street trees.

SERVICE FOREMAN. The Foreman of the Village's Service Department.

STREET. A public road or public alley located within the village.

STREET TREES. Trees that abut a street or public place for which the planting site and trunk are located within the public right-of-way.

TREE. Any self-supporting woody plant usually having one main trunk which produces a more or less distinct and elevated head with many branches and a potential caliper or diameter at breast height of two inches or more.

TREE LAWN. That portion of the property lying between the edge of the public right-of-way and the edge of the paved street.

URBAN FOREST. All trees, shrubs and vegetation on public property within the municipality, including the public right-of-way, easement dedicated to the village, street medians, public parks, landscaped municipal properties, nature preserves and undeveloped lands owned by the Village.

UTILITY. Any water, sewer, gas, drainage or culvert pile, electric power, telecommunication signal, communication or cable television conduit, fiber, wire, cable system or operator thereof.

UTILITY PROVIDER. Any natural or corporate person, business association or other business entity, including, but not limited to, a partnership, sole proprietorship, a political subdivision, a public or private agency of any kind, which owns or operates a system supplying and/or carrying a utility.

VEGETATION. Shrubs, bushes and other woody plants that usually remain low and produce shoots or stems from base and are not usually tree-like or single stemmed.

SECTION 3. MUNICIPAL CONTROL OF TREES IN THE MUNICIPALITY

The Municipal Manager is responsible for enforcing this ordinance and the regulations authorized herein. The Municipal Manager is hereby given jurisdiction, authority, supervision and control over all trees, plants and vegetation which now or which hereafter may exist in any public place in the municipality. The Municipal Manager also is given jurisdiction, authority and control concerning the issuing of permits hereinafter provided for. In the exercise of any or all of the powers granted herein, the Municipal Manager shall have the authority to delegate all or such part of his power and duties with respect the supervision and control of trees, or the issuance of permits authorized herein, to such subordinates and assistants in the employ of the municipality as the Municipal Manager may deem appropriate from time to time.

SECTION 4. TREE ADVISORY BOARD

- a. There is hereby created and established a Tree Advisory Board for the Village. The Board shall consist of the following members: the Service Foreman or his/her designee, the Village Arborist and at least three, but not more than five persons, residents of the Village, who shall be appointed by the Mayor with the approval of Council.
- b. The term of the persons to be appointed by the Mayor shall be three years. No member shall serve for more than twelve consecutive years. In the event that a vacancy occurs during the term of any member, his/her successor shall be appointed for the unexpired portion of the term.
- c. The Tree Advisory Board shall meet a minimum of six (6) times per year. At the first meeting each year the Board shall elect a chairperson from among its membership and set a regular monthly meeting time, provided that the chairperson may cancel any meeting when there is no business to be transacted.

Members of the Board shall serve without compensation.

- d. The Tree Advisory Board shall have power to study, investigate, plan, advise, report and recommend to the Municipal Manager any action, program, plan or legislation which the Board finds or determines to be necessary or advisable for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys.

Village of Greenhills
Ordinance No. 2012-30-S&S

The Tree Advisory Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. All plans, findings, advice, reports and recommendations made by the Board shall be in writing and designate by name those members of the Board approving or concurring.

SECTION 5. TREE MAINTENANCE/REMOVAL

Public tree care. The Village shall have the right to plant, prune, treat, maintain or remove trees, plants, vegetation or portions thereof within the public right-of-way of all streets, alleys, avenues, lanes and in other public places as may be necessary to eliminate or reduce an unacceptable risk to public safety; preserve or enhance the health of the trees, plants or vegetation; or to maintain the beauty/environmental quality of public grounds.

SECTION 6. UTILITY PROVIDERS

Utility providers desiring to prune or clear trees within the right-of-way or on other public properties shall provide written evidence to the Municipal Manager of its adherence to established guidelines for line clearance work recommended by the National Arborists Association. Such companies shall also notify the Municipal Manager before commencing line clearance work within the municipality.

SECTION 7. TREE PROTECTION

A. *Permits for tree removal.*

- (1) With the exception of representatives of the municipality, any person, business, contractor, utility or property owner desiring to remove a tree from the tree lawn, parks, street medians or other public place for the purpose of construction, or for any other purpose, must first obtain a permit from the municipality.
- (2) The Municipal Manager has the authority to grant permits for the removal of trees from public places. Such permits may be denied if the removal of tree(s) from a public place is not necessary for the protection of public health and safety; or can be reasonably avoided; or, in the case of realty development or construction, unless the permit request is accompanied by a plan to protect public trees in the general vicinity of construction and add new trees and/or landscaping if part of the tree lawn is to be removed. The Village shall review permit applications within fifteen (15) business days of postmarked date or record of receipt, whichever is earlier; if a permit application is not acted upon within the specified time, the applicant may deem the permit to have been denied.

- (B) *Removal of public trees by the Village.* Whenever it is necessary for the Village to remove a tree or shrub from a tree lawn or other public place, in connection with the

Village of Greenhills
Ordinance No. 2012-30-S&S

paving of sidewalk, paving or widening of a street, or for any other reason, the Village shall make reasonable endeavors to remove and replant such trees or replace them. No tree over 12 inches in caliper or tree which is 30 years of age or older, shall be removed without prior review by the Municipal Manager. Replacement trees shall meet the standards of species, size, condition and placement set forth in this ordinance, in the Greenhills Tree Inventory Report & Management Plan (dated May, 1995) and in Greenhills' approved street tree list.

(C) *Removal or defacement of public trees.*

- (1) No person shall damage, cut, carve, transplant or remove any tree or shrub on public property or in the public right-of-way; attach any rope, wire, nails, advertising posters, or other contrivance to any tree or shrub on public property or in the public right-of-way; or set fire or permit fire to burn in any manner that injures any portion of any tree or shrub on public property or in the public right-of-way.
- (2) Any public tree(s) that are damaged, but not badly enough to justify removal, as determined by the Municipal Manager, shall be considered to be devalued. The person or entity causing such damage shall compensate the Village for such damage. The monetary amount shall be determined by the Municipal Manager or the Manager's designee, based on the assessment of a licensed arborist of the monetary investment required to save the tree(s); or, if there is a likelihood the tree(s) will not survive the damage inflicted, then the cost of replacement of tree(s) of like species and caliper; or, if a different species is more suitable based on current best practices, or the tree(s) is/are too large to be replaced in kind, then the cost of replacement with tree(s) of minimum caliper 1-2" of the same species or more suitable species, as judged by a licensed arborist.

- (D) *Tree topping.* Street trees or public trees shall not be topped except in such circumstances when the trees are severely damaged by storms by other natural causes, or when such trees are under utility wires or other obstructions where other pruning practices are impractical. Tree topping shall be considered as the severe cutting back of limbs to stubs larger than three inches in diameter within the trees' crown to such a degree so as to remove the normal canopy and/or disfigure the tree. As a matter of policy, the Municipal Manager should make all utility providers aware of the standards for tree topping of public and street trees within the Village, and take all reasonable steps to insure that the pruning of public trees by utility companies is consistent with these standards.

SECTION 8. REALTY DEVELOPMENTS AND CONSTRUCTION

- (A) No person shall by any type of construction reduce the number of trees in the tree lawn without first obtaining a permit from the Municipal Manager or his designee. Efforts should be

Village of Greenhills
Ordinance No. 2012-30-S&S

made to protect public trees from damage and a plan to install street trees and/or add landscaping should accompany the permit request.

(B) No person in charge of, or responsible for, the erections, alteration or removal of any building or structure in the municipality shall permit any tree upon any public place in the vicinity of such operation to stand without a good and sufficient guard or protection as to prevent injury, damage, or defacement to such tree arising out of, in connection with, or by reason of such operation. The sufficiency of such guard or protection shall be determined by the Municipal Manager at the time of such erection, alteration or removal.

(C) No person shall excavate ditches, tunnels, trenches or install a driveway or sidewalk within a radius of ten feet of any public tree or shrub without first obtaining written approval from the Municipal Manager.

(D) No person shall place or maintain in the ground in any public place any stone, concrete, brick, or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in the municipality without first obtaining written permission of the Municipal Manager.

(E) The Village shall review any permit application required under this section within 15 business days of the postmarked date or record of receipt, whichever is earlier; if an application is not acted upon within the specified time, the applicant may deem the permit to have been denied.

SECTION 9. PENALTY

Whoever violates any section of this chapter shall be guilty of a misdemeanor punishable by a fine of not more than \$500 for the first such offense. For subsequent offenses within one year after the first offense, such person shall be guilty of a misdemeanor punishable by a fine of not more than \$750. Each day a condition or any action in violation of this chapter is continued or permitted may be charged as a separate offense. At the time of sentencing and after sentencing, the Court may permit restitution in lieu of any or all of the fine imposed.

Passed this 17th day of July, 2012.

Glen Drees, VICE MAYOR /s/

Kathryn L. Lives, CLERK OF COUNCIL /s/