

ORDINANCE 2022-15

AN ORDINANCE ENACTING CHAPTER 98, TREES,  
OF THE CODIFIED ORDINANCES OF SWANTON, OHIO.

WHEREAS, it is deemed necessary to create Chapter 98, Trees, within the Codified Ordinances of Swanton, Ohio in order to provide for the public health and safety of maintaining trees within the Village of Swanton, Ohio;

NOW, THEREFORE, BE IT ORDAINED by Council of the Village of Swanton, Fulton County, Ohio, that:

Section 1. Chapter 98 be enacted to read as follows in Exhibit A

Section 2. That it is found and determined that all formal actions of this Village Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Village Council, and that all deliberations of this Village Council and of any of its committees that resulted in such 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. That this ordinance shall be effective at the earliest time allowed by law.

First Reading: May 9, 2022

Second Reading: May 23, 2022

Third Reading: June 13, 2022

Vote on Passage

Moved: Kania Second: S. Disbrow YEAS: 6 NAYS: 0

Date of Passage: June 13, 2022

  
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Neil Toeppe, Mayor

Attest:

I, M. Jason Vasko, Fiscal Officer of the Village of Swanton, do hereby certify that this is a true and accurate copy of Ordinance 2022-15, passed on June 13, 2022

  
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M. Jason Vasko, Fiscal Officer

## **Chapter 98: Trees**

### **§98.01 DEFINITIONS**

"Easement" means the right to cross or otherwise use someone else's land for a specified purpose.

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

"Hazard" Tree that is determined through the ISA Tree Risk Assessment Process as being high or extreme risk.

"Lion's Tailing" means severe act of trimming a tree by removing all the interior branches and foliage, leaving a limited amount of foliage at the end of each branch or limb so as to resemble the tail of a lion.

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

"Property Owner" means the person owning such property as shown by the County Auditor's Plat of the Village of Swanton, Fulton and Lucas Counties, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.

"Public Places" shall include all other grounds owned or controlled by the Village of Swanton.

"Right-of-Way" means any portion of the public way, street, alley, or sidewalk.

"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.

"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 or pedestrian traffic, and shall include alleys.

"Treelawn" means the right of way parallel to any Village street, highway, or alley. 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.

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

"Trees, Private" shall include all trees now or hereafter growing on any private property.

"Trees, Public" shall include all trees now or hereafter growing on any public places.

"Tree size" (small, medium, large) shall be determined by the tree's height at maturity.

"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.

"Urban Forest" mean the trees and other woody plants growing within the Village of Swanton.

"Urban Forester" is the person charged with professionally managing the urban forest.

"Urban Forestry" is the planting, maintenance, care, and protection of tree populations in the Village of Swanton.

### **§98.02 CONTROL OF TREES – VILLAGE PERSONNEL**

- (A) The Village Administrator shall serve as the Village Urban Forester and is given full jurisdiction, authority, control, supervision, and direction of all trees that now, or may hereafter exist upon any public place in the village; and over all trees that exist upon any private property when, in the Village Urban Forester's opinion, such trees constitute a hazard to public property, to public safety, or public welfare of the village.
- (B) The Village Urban Forester shall work and consult with Swanton Tree Commission to develop and implement Urban Forest Management Plan, facilitate meetings and training opportunities for Tree Commission and staff, and participate in Village Urban Forest management activities and outreach.
- (C) The Village Urban Forester is also given full jurisdiction, authority, and control in connection with the issuing of permits hereinafter provided for. In the exercise of any of the powers herein granted, the Village Urban Forester shall have the authority to delegate all or such part of his or her power and duties with respect to supervision and control of trees to the Public Service Superintendent.

### **§98.03 PRIVATELY OWNED TREES**

- (A) It shall be the duty of any property owner owning or occupying property bordering on a right of way, whether front, side, or rear yard, upon which property there may be trees or shrubs, to prune or cause to be pruned any tree or shrub which shades or obstructs streetlights, street signs, or obstructs pedestrian or vehicular traffic on sidewalks or streets.
- (B) It shall be the duty of any person bordering on a right of way, whether front, side, or rear yard, upon which property there are any trees or shrubs which are designated by the Village Urban Forester as dead, dying, diseased, and hazardous to the public health, safety, and welfare, or property of the people of Swanton, to remove or cause to be removed said tree(s) and/or shrub(s).
- (C) If in the opinion of the Village Urban Forester in consultation with the Tree Commission a tree located on private property constitutes a hazard, requiring the

tree to be removed or pruned, the Village Urban Forester shall issue a written justification to the property owner by USPS Certified Mail. Said notice shall provide no less than 30 days for the private property owner to remove or prune the tree. If the private property owner does not remove or prune the tree in the timeframe established, the Village Urban Forester may cause the tree to be removed or pruned at the initial expense of the village.

- (D) Thereupon, the expense of removal, pruning, and all related administrative costs shall be billed at the cost to remove tree plus 10% administrative costs, to the property owner by USPS Certified mail. Upon failure to reimburse the village this amount within 30 days thereafter, Village Council shall make written return to the County Auditor along with a request that such amount be entered upon the tax duplicate, to become a lien upon such lands from and after the date of entry, and to be collected as other taxes and returned to the Village according to law.

#### **§98.04 CARE OF TREES ON PUBLIC PROPERTY.**

- (A) No person shall prune, remove, move, brace, cable, spray, or otherwise perform work on a tree in a tree lawn or other public place without the property owner first obtaining a permit from the Village. The person obtaining the permit shall abide by the standards as set forth by the Village Urban Forester and Swanton Tree Commission.
- (B) The Village shall keep all trees standing upon any public place in the Village properly pruned so that the branches of such trees projecting over any public sidewalk, private driveway, or into any public street beyond the curb line shall not conflict with the public safety.
- (C) The Village shall have the right and duty to properly prune, water, mulch, and perform any necessary work to any tree existing on any public place in the Village to ensure the public safety or to preserve the function or beauty of such public place. The Village shall further have the right to remove any such tree or any part thereof which is hazardous or that, by reason of its location or nature, is injurious or detrimental to other public improvements in the village, is injured, or infected with any fungus, insect, pest, or disease which cannot otherwise be controlled.
- (D) All tree care practices shall conform to all Village tree care specifications developed and implemented by the Village Urban Forester and Swanton Tree Commission. Work shall conform to the latest version of OSHA and ANSI standards for tree planting, establishment, and worker safety.

#### **§98.05 ABUSE OR MUTILATION OF PUBLIC TREES AND TREELAWNS**

- (A) No person shall intentionally damage, cut, carve, top, lion's tail, transplant, or remove any tree; attach any device such as but not limited to rope, wire, nails, advertising posters, or other contrivance to any public 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.

- (B) No person shall excavate any ditches, tunnels, trenches, alleys, or driveways within a radius of twenty feet from the trunk of any public tree or shrub without obtaining approval via written Permit from the Village.
- (C) No person shall permit any natural or artificial gas, salt, brine, water, oil, liquid dye or any other substances deleterious to trees to come in contact with the soil surrounding the roots of any tree upon any public place in the Village in such a manner as to kill, injure, deface, destroy, or affect the growth of such trees.
- (D) No person shall deposit, drive, place, store, or maintain upon any public place of the Village, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or nutrients to the roots of any public tree growing therein, except by written Permit of the Village.

### **§ 98.08 PROTECTING TREES ON PUBLIC PROPERTY**

- (A) Village personnel shall explore tree protection options during the early planning stages of construction projects in consultation with the Village Urban Forester and Swanton Tree Commission.
- (B) Whenever it is necessary to remove a tree(s) or shrub(s) from a treelawn or other public place in connection with the construction of a sidewalk, or the paving or widening of a portion of a street, alley, or highway used for vehicular traffic, or any other reason, the Village shall remove and replant such trees or shrubs, and plant trees where public property is available per the Village Master Planting Design. Trees may be removed without replanting in the same vicinity in like numbers should said trees be deemed by the Tree Commission to be too densely planted or in violation of distance requirements.
- (C) No person shall remove a tree(s) or shrub(s) from a treelawn or other public place, as defined, for the purpose of construction or for any other reason without first requesting and obtaining a permit from the Village. The person shall bear the cost of the removal of all trees or shrubs removed. Permit shall require a fee set annually by the Village Urban Forester and Tree Commission to cover the replacement, planting, and establishment cost for each tree removed.
- (D) All work performed around existing trees shall conform to all Village tree protection specifications developed and implemented by the Village Urban Forester and Swanton Tree Commission. Work shall conform to the latest version OSHA and ANSI standards for tree protection, maintenance, and worker safety.

### **§98.09 TREE PLANTING IN TREELAWNS**

- (A) No person shall plant any tree in a treelawn or other public place without first obtaining a written Permit from the Village.
- (B) All tree planting and establishment shall conform to all Village tree planting and establishment specifications developed and implemented by the Village Urban

- Forester and Swanton Tree Commission. Work shall conform to the latest version of OSHA and ANSI standards for tree planting, establishment, and worker safety.
- (C) All tree selection will follow the village’s Master Planting Design as developed and maintained by the Swanton Tree Commission and the Village Urban Forester.
- (D) Tree spacing. The spacing of public trees will be in accordance with the three species size classes at maturity. No trees may be planted closer together than the following (except in special plantings designed or approved by the Village Urban Forester and Swanton Tree Commission.
- Small trees (15-25 feet tall at maturity): 20 feet apart
  - Medium trees (25-45 feet tall at maturity): 30 feet apart
  - Large trees (50+ feet tall at maturity): 45 feet apart
- (E) Distance from curb and sidewalk. No trees may be planted contrary to the following (except in special plantings designed or approved by the Village Urban Forester and Swanton Tree Commission.)
- Small trees: 2 feet (4-6 ft wide treelawn)
  - Medium trees: 3 feet (6-8 ft wide treelawn)
  - Large trees: 4 feet (8+ ft wide treelawn and no overhead primary or transmission electric lines)
- (F) The Village shall, utilizing the Master Planting Design process, always planting the largest size class that will survive and thrive on said treelawn or public property.
- (G) Distance from other public infrastructure. No trees may be planted closer to these items than the following (except in special plantings designed or approved by the Village Urban Forester and Swanton Tree Commission.)

	Small Trees	Medium and Large Trees
Street intersections measured from inside curb radius	35 feet	35 feet
Alley intersections	20 feet	20 feet
Driveway aprons from widest point	20 feet	20 feet
Underground gas, water, or sewer laterals:	10 feet	15 feet
Water shut off or gas valves	10 feet	15 feet
Fire hydrants	10 feet	10 feet
Streetlights and utility poles	10 feet	15 feet

**§ 98.10 CERTAIN TREES PROHIBITED.**

- (A) Please see current list of prohibited trees maintained by the Village Urban Forester and Swanton Tree Commission. Prohibited trees are based on their invasive tendencies as recognized by the Ohio Invasive Plants Council, Ohio Department of Agriculture, and the Ohio Department of Natural Resources.

## **§ 98.12 TREES IN NEW SUBDIVISIONS.**

- (A) The Village Urban Forester and Swanton Tree Commission shall develop the planting design for all newly developed village treelawns. Tree selection will tie into the rest of the Village Master Planting Design.
- (B) It shall be the intent of the Village to approve only subdivisions with minimum 8-foot wide treelawns.
- (C) Developer shall pay Village the tree, planting, and establishment cost for each treelawn tree estimated to be in the subdivision. Estimated number of trees will be determined by Village Urban Forester and Swanton Tree Commission based on design plan. Cost of tree, planting, and establishment shall be determined annually by the Village Urban Forester and Swanton Tree Commission based on market prices. Tree costs include the purchase and delivery of the tree. Planting costs include all costs associated with planting the tree including labor and equipment. Establishment costs include watering, young tree training, and mulching for the first 10 years post planting.

### **Special Plantings**

- (A) Village personnel and officials shall explore and utilize modern construction techniques and technologies in public business and commercial districts that allow for long-term tree growth and their subsequent benefits. Consultation shall occur during the early planning stages of such projects in consultation with the Village Urban Forester and Swanton Tree Commission.

## **§ 98.13 UNLAWFUL INTERFERENCE.**

- (A) No person shall interfere with the Village Urban Forester, their subordinates, or assistants while engaged in or about the carrying out of the provisions of this chapter or the doing of any of the work ordered by the Village Urban Forester to be done hereunder.

### **PENALTIES:**

Any person violating or failing to comply with any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not less than \$25 (\$25.00) nor more than \$10,000 (\$10,000.00) per violation in addition to any required restitution for damages incurred by the Village or any special assessments levied as provided for herein.