

ORDINANCE NO.: 24-1240

**AN ORDINANCE AMENDING AND RESTATING 541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS, TO BE NEWLY TITLED PUBIC AND PRIVATE TREES, AND DESTRUCTION OF SHRUBS, TREES OR CROPS.**

WHEREAS, the Village could benefit from service and funding resources through the Ohio Department of Natural Resources, Urban Forestry, to receive a new planting design of trees within the rights of way and on municipal property at no charge to the Village; and

WHEREAS, to be eligible for consideration for receipt of such services and funding, the Village must amend its ordinance governing trees, 541.06 Destruction of Shrubs, Trees or Crops and establish a Tree Commission; and

WHEREAS, the Village, now amends Ordinance 541.06 and will then, by way of separate legislation, establish a Tree Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF RUSSELLS POINT, LOGAN COUNTY, OHIO THAT:

SECTION 1: Chapter 541, Property Offenses, Section 541.06 Destruction of Shrubs, Trees or Crops, amended and restated as follows, including the re-titling of the section which shall be updated in all table of contents:

**541.06 PUBIC AND PRIVATE TREES, AND DESTRUCTION OF SHRUBS, TREES OR CROPS.**

**541.06.01 DEFINITIONS**

**As used in this section, the terms listed below shall be interpreted according to the following definitions.**

- (a) **"Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.**
- (b) **"Street or Highway" means the entire width of every public way, easement of right-of-way when any part thereof is open to the public, as a matter of right, for the purpose of vehicular and pedestrian traffic, and shall include alleys.**
- (c) **"Public Places" shall include all other grounds owned by the Village of Russells Point.**
- (d) **"Property Line" means the outer edge of a street or highway.**

- (e) "Mayor or their Agent" is the Village Mayor or employee hired by the Village of Russells Point charged with the administrative duties of the Village.
- (f) "Treelawn" means 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.
- (g) "Property Owner" means the person owning such property as shown by the County Auditor's Plat of the Village of Russells Point, Logan County, Ohio, including the executor, administrator, or beneficiary of the estate of a deceased owner.
- (h) "Tree" means a tall growing woody plant with one of more perennial main stems or trunk which develops branches from the aerial section of the stem rather than from the base; capable of being pruned to as least six feet of clear branchless trunk below the crown within five years of planting.
- (i) "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.
- (j) "Public Trees" shall include all shade and ornamental trees now or hereafter growing on any public places.
- (k) "Right-of-Way" means any portion of the public way, street, alley, or sidewalk.
- (l) "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.
- (m) "DBH" (diameter at breast height) is the diameter in inches of the stem of a standing tree at 4.5 feet above the ground level.

#### 541.06.02 PRIVATELY OWNED TREES AND PUBLIC TREES

##### (a) Privately Owned Trees

Private property owners shall comply with the following duties:

- (1) It shall be the duty of any property owner owning or occupying property bordering on right of way upon which property there may be trees or shrubs, to prune or cause to be pruned such tree or shrub in a manner that they will not shade or obstruct street lights, street signs, or obstruct pedestrian or vehicular traffic on sidewalks or streets.
- (2) It shall be the duty of any person owning property bordering on right of way upon which property there are any trees or shrubs which are designated by the Mayor or their Agent as dead, dying, diseased, or hazardous or deemed a

menace to the health, safety, and welfare of the people of Russells Point, to remove or cause to be removed said tree(s) and/or shrub(s).

- (3) In either of the above situations, the Mayor or their Agent shall send a written notice to the property owner, which shall be served by certified mail to the address listed on the Logan County Auditor's website, indicating the required action (pruning or removal) to be taken. A period of thirty (30) days from receipt of this letter shall be permitted for the property owner to affect the indicated action. Should the property owner or occupant fail to comply, it shall be lawful for the Mayor or their Agent to enter upon the property and cause such action. The property owner or occupant shall be charged treble the actual cost of the work and cash payment shall be made within thirty (30) days or triple the actual cost of the work shall be assessed to the property taxes.
- (4) The Village, through the Mayor or their Agent, may remove or cause or order to be removed, any trees or part thereof which by reason of its nature is injurious to existing sewers, electric power lines, gas lines, water lines, or other public improvements.
- (5) The Village, through the Mayor or their Agent, shall examine or cause to be examined every tree within 100 feet of any sanitary or storm sewer, drain, manhole, or other public utility line above or below the surface of the ground, which has been reported as dangerous to or causing interference with said sewer, drain, manhole or public utility line, and if found dangerous or causing damage or obstruction of such sewer, drain, manhole or public utility line, the Mayor or their Agent shall give to the property owner written notice of their findings and an order that such person remove said tree or injurious part thereof within forty five (45) days of the receipt of the notice, which shall be served by certified mail to the address listed on the Logan County Auditor's website.

(b) Public Trees

- (1) The Village shall comply with the following duties:
  - a. Whenever it is necessary for the Village to remove a tree from Village right of way, the Village shall remove such trees and shall replace them or plant, on another right of way area, an equal number of trees to the satisfaction of the Mayor or their Agent.
  - b. No person or property owner shall remove a tree from the right of way for any reason without approval from the Mayor or their Agent. Should approval be given for the removal, the person will be billed by the Village of Russells Point for the reestablishment of an equal number of trees to be planted by the Village in a location of its choosing. Reestablishment cost

shall be determined annually per Village of Russells Point's Urban Forestry Management Plan. Failure to pay reestablishment fee within thirty (30) days shall result in the fee being assessed to the property taxes.

- c. Whenever any tree or shrub is planted or set out in conflict with the provisions of this Ordinance and policies and specifications of the Village, the Mayor or their Agent may cause removal of the same without obligating the Village to replace the illegally planted tree(s).
- d. All planting of public trees shall conform to the Village of Russells Point Tree Planting Specifications and the most current Master Street Tree Planting Design within the Village of Russells Point's Urban Forestry Management Plan. All selection of public trees shall promote the establishment of quality tree canopy, thus favoring the use of large stature trees where space accommodates them.

(2) No person shall abuse or mutilate public trees:

- a. Unless specifically authorized by the Tree Commission, no person shall intentionally damage, cut, carve, top, transplant, place soil or mulch against the trunk/root collar, or remove any tree; attach any rope, wire, nails, advertising posters, squirrel feeder, or other contrivance to any 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, or alley or drive within a radius of ten feet of any public tree or shrub between 0.5 – 10 inches DBH or twenty feet from any public tree greater than 10 inches DBH without obtaining approval from the Mayor or their Agent.

(3) No person shall place materials on public property:

- a. No person shall deposit, place, store, or maintain upon any public place of the Village, any soil, mulch, organic matter, stone, brick, sand, concrete, or other materials which may impede the free passage of water or air to the roots of any tree growing therein, except by written consent of the Mayor or their Agent.

(4) Permit required to plant or perform maintenance of public trees

- a. No person shall plant, prune, brace, cable, spray, or otherwise perform work on a tree in a treelawn or other public place without first obtaining the prior approval of the Mayor or their Agent. The Village shall require the property owner to obtain a permit from the Mayor or their Agent.

The person obtaining the permit shall abide by the standards as set forth in this Ordinance and policies and specifications of the Village.

(5) Village approval required for trees in new subdivisions

- a. Trees shall be selected and incorporated in accordance with the Village of Russells Point's Master Street Tree Planting Design. The Mayor or their Agent shall approve the tree plan for any newly developed Village treelawns.

(6) Village approval required for treelawn design and construction

- a. The Village of Russells Point shall make every effort to design and construct treelawns that will accommodate and promote Large Trees and quality tree canopy. Considerations include, but are not limited to, treelawn width, soil quality, underground and above ground utilities, lighting, and driveways. The Mayor or their Agent shall approve all treelawn design and construction plans.

(7) Village approval required for trees in commercial and downtown districts

- a. The Village of Russells Point shall make every effort to design and construct space that will accommodate and promote Large Trees and quality tree canopy. The Mayor or their Agent shall approve all commercial and downtown design and construction plans.

(8) Village approval required for tree spacing

- a. The spacing of public trees will be in accordance with the three (3) species size classes referred to in the Russells Point Mayor or their Agent's list of Street Trees (Master Planting Design.) Trees may not be planted closer together than the following distances:

- |      |                     |                              |
|------|---------------------|------------------------------|
| i.   | <u>Small Trees</u>  | <u>fifteen (15) feet</u>     |
| ii.  | <u>Medium Trees</u> | <u>twenty-five (25) feet</u> |
| iii. | <u>Large Trees</u>  | <u>thirty-five (35) feet</u> |

- b. Planting distances may be widened depending on tree species. All planting locations shall be approved by the Village Mayor or their Agent.

(9) Required distance from curb and sidewalk absent Village approval

- a. The distance public trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes in the Russells Point Tree Commission's list of Street Trees

and no trees may be planted closer to the curb or sidewalk than the following unless approved by the Village Mayor or their Agent:

- i. Small trees: two (2) feet (minimum of a four-foot wide freelawn)
- ii. Medium trees: three (3) feet (minimum of a six-foot wide tree lawn)
- iii. Large trees: four (4) feet (minimum of an eight-foot wide freelawn)

(10) Required distance from street corners, driveways, and alleys

- a. No public tree shall be planted closer than thirty-five (35) feet from any street corner, measured from the point nearest the intersecting curbs or curb lines. No public tree shall be planted closer than ten (10) feet from any driveway or alley measured laterally from the widest point of the driveway or alley apron.

(11) Required distance from utilities and fire hydrants

- a. No public trees other than those species referred to as Small Trees in the Russells Point Tree Commission's list of Street Trees may be planted under or within twenty-five (25) lateral feet of any overhead primary electric wire. The minimum distance from underground water and sewer laterals shall be ten (10) feet for species referred to as Small Trees and fifteen (15) feet for Medium and Large Trees. No public tree shall be planted closer than ten (10) feet to any fire hydrant.

541.06.03 DESTRUCTION OF SHRUBS, TREES OR CROPS.

- (a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

541.06.04 ADOPTION OF RULES

- (a) The Mayor or their Agent, with the approval of Village Council, may adopt rules consistent with this Ordinance which shall provide detailed guidelines for the administration of this Ordinance.

541.06.05 PENALTY

- (a) Any person violating or failing to comply with any provision of subsection 541.06.02 shall be, upon conviction or a plea of guilty, subject to a fine not less than

twenty five dollars (\$25.00) nor more than ten thousand dollars (\$10,000.00) one hundred dollars (\$100.00) per violation in addition to any required restitution for damages incurred by the Village or any special assessments levied as provided for herein. The Village may pursue all other remedies to enforce subsection 541.06.02 available in law and equity.


(b) In addition to any penalty provided, ~~whoever violates this~~ any person violating or failing to comply with any provision of subsection 541.06.03 shall be, upon conviction or a plea of guilty, ~~section is~~ liable in treble damages for the injury caused. (ORC 901.51)


(c) In addition to any penalty provided, any person violating or failing to comply with any provision of subsection 541.06.03 shall be ~~Whoever violates this section is~~ guilty of a minor misdemeanor of the fourth degree. (ORC 901.99(A))

SECTION 2: All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereto.

SECTION 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this council and that all deliberations of this Council, and any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of the Ohio Revised Code.

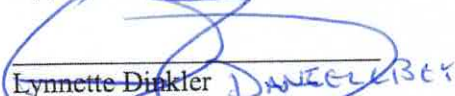
Passed in Council this 15 day of July 2024.

  
Robin Reames, Mayor

ATTEST:   
Vanessa Stidham, Fiscal Officer

APPROVED:

Approved as to form this 15 day of July 2024.

  
Lynnette Dinkler  
Village Solicitor