

1st Reading 4-26-11
2nd Reading 5-10-11
3rd Reading 5-10-11

ORDINANCE NO. B-11-01

**AN ORDINANCE REGULATING THE PLANTING AND
MAINTENANCE OF TREES IN THE CITY OF NEW HAVEN, INDIANA,
AND CREATING A CITY TREE COMMISSION**

WHEREAS, the public lands of the City of New Haven and its many parks are blessed with an abundance of trees which benefit the residents of New Haven by providing cleaner air, shaded streets and aesthetic beauty; and,

WHEREAS, the City of New Haven seeks to attain the designation of a "TREE CITY USA" Community as defined by the Arbor Day Foundation in order to promote education about the care and maintenance of trees and to qualify for grants relating to the maintenance and preservation of the trees in the city; and,

WHEREAS, the establishment of a City Tree Commission to recommend protocols for the planting and maintenance of trees on city property will protect this important natural resource.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of New Haven, Indiana:

Section 1: that the following Sections be added to Chapter 95 of the City Code:

Section 2: this ordinance will repeal Ordinance Section 95.02 of the City Code:

§95.03 APPLICATION

This subchapter applies to all trees located on real property owned by the city or a department of the city.

§95.04 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) Street Trees: Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

(B) Park Trees: Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access to as a park.

§95.05 CREATION OF CITY TREE COMMISSION

There is hereby created and established a City Tree Commission for the city, which shall consist of five members, three shall be appointed by the Mayor with the approval of the Common Council, one to be appointed by the Park and Recreation Board and one to be appointed by the Superintendent of the City Utilities Department.

§95.06 TERM OF OFFICE

The term of the three persons to be appointed by the Mayor shall be three years except that the term of one of the members appointed to the first Commission shall be for only one year and the term of one member of the first Commission shall be for two years. The term of the member appointed by the Park and Recreation Board and by the City Utilities Department shall be for three years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

§95.07 COMPENSATION OF COMMISSION

Members of the Commission shall serve without compensation.

§95.08 DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Commission to study, investigate, counsel and develop and update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of trees and shrubs in parks, along streets and in other public areas within the City of New Haven. This plan will be presented annually to the Board of Public Works and the City of New Haven Department of Parks and Recreation Board and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The Commission, when requested by the Board of Public Works or the Park Board, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

§95.09 OPERATION

The Commission 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.

§95.10 REVIEW BY BOARD OF PUBLIC WORKS OR PARK BOARD

The Board of Public Works and Park Board shall each have the right to review the conduct, acts and decisions of the City Tree Commission as the same may relate to property within the separate jurisdiction of each board. Any person may appeal any ruling or recommendation of the City Tree Commission to the Board of Public Works or the Park Board who may hear the matter and make the final decision.

§95.11 TREE SPECIES

The Commission shall develop a list of recommended trees which shall constitute the official tree species for the City. No species, other than those included in this list, may be planted as street trees without the written permission of the Commission.

§95.12 SPACING

Spacing of trees shall be made with consideration given to current ANSI standards for tree care, transplanting and pruning as well as community preferences, as may be determined by the Commission. Spacing for different areas of the City may vary.

§95.13 DISTANCES FROM CURBS AND SIDEWALKS

For aesthetic purposes, trees planted after enactment of this Ordinance may not be planted closer to any curb or sidewalk than the following:

- a. Small trees (25' or shorter at full maturity) two feet from a curb or sidewalk.
- b. Medium trees (25' to 40' at full maturity) three feet from a curb or sidewalk.
- c. Large trees (40' or taller at full maturity) four feet from a curb or sidewalk.

§95.14 TREE TOPPING

It shall be unlawful as a normal practice for any person, firm or city department to top any city tree. "Topping" is defined as the cutting back of the leading shoots of major limbs which form a natural canopy of the tree so as to disfigure the tree's crown. The City Departments shall follow ANSI standard and pruning guidelines when removing tree limbs from utilities areas, such as utility lines. Trees damaged by storms or other causes are exempted from this Ordinance.

§95.15 ATTACHING OBJECTS TO TREES

It shall be unlawful to attach any guy wire, cable, or any other item to any tree or to use the same in connection with any banner, sign, or similar item for any purpose whatsoever. It shall be unlawful to cut or trim any trees for the purpose of erecting any telephone, telegraph, or

power poles and wires without first obtaining the written approval of the Board of Public Works and Safety and receiving a written permit therefor.

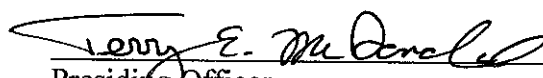
§95.16 DISTANCES FROM STREET CORNERS AND FIRE HYDRANTS

For aesthetic purposes, no street trees planted after enactment of this Ordinance shall be planted closer than thirty-five (35) feet of any street corner measured from the point of the nearest intersection, curbs or curb lines or within ten (10) feet of any fire hydrant.

§95.17 PRUNING

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within its property and the right-of-way lines of all streets, alleys, avenues and lanes as may be necessary to preserve or enhance the symmetry and beauty of such grounds.

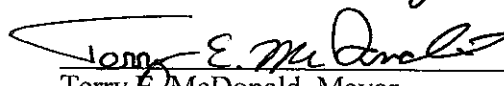
This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Terry E. McDonald
Presiding Officer

This Ordinance presented by me to the Mayor on the 10th day of May, 2011 at the hour of 7:05 p.m.


Brenda Adams, Clerk-Treasurer

This Ordinance approved and executed by me on the 10th day of May, 2011, at the hour of 7:06 p.m.


Terry E. McDonald, Mayor

ATTEST:


Brenda Adams, Clerk-Treasurer