

**ORDINANCE NUMBER 18-09
OF THE CITY OF FRANKLIN, INDIANA**

An Ordinance to Protect and Preserve the City's Tree Resources

WHEREAS the selection, planting, maintenance, removal, and overall care of trees, shrubs and hedges on public property and within public rights-of-way affect such diverse matters as drainage, air and water quality, pedestrian and vehicular safety, utility placement and maintenance, disease control, the general appearance of the city of Franklin and its streetscape, and the general quality of life for Franklin's citizens.

WHEREAS, such matters are of city-wide concern and should be regulated by Ordinance.

WHEREAS, Ordinance No. 05-14 and Ordinance No. 11-02 (which improved upon the City's program for the protection and maintenance of trees along public rights-of way) should be repealed in its entirety and replaced by this Ordinance.

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN,
INDIANAN, ORDAINS AND ENACTS THE FOLLOWING:

- | | |
|-----|-----|
| No. | No. |
|-----|-----|
- 1) **Repeal of Ordinance 05-14 and Ordinance 11-02:** Ordinance 05-14 and Ordinance 11-02 are hereby repealed in their entirety and replaced by this Ordinance;

2) Definitions

- 2.1 City or City of Franklin means the City of Franklin, Indiana including but not limited to the Mayor, Board of Works, Common Council, Planning Department, Street Department, Tree Advisory Committee and City Arborist.
- 2.2 Arborist is a person who holds a current ISA Certification.
- 2.3 City Arborist is an arborist employed by the City.
- 2.4 Tree means a perennial plant having a woody supporting main stem or trunk, ordinarily growing to definite heights and usually developing branches at some distance from the ground.
- 2.5 Street Tree means a tree on real estate owned or controlled by the city, including trees located within public rights-of way or within eight (8) feet of the street curb if the right-of-way cannot be determined, but excluding trees on real estate owned and controlled by the Franklin Parks and Recreation Department or Greenlawn Cemetery, or trees located within public alleys.
- 2.6 Tree Care means the removal, planting, treating, spraying, pruning, and any other tree maintenance or cultural work intended for the enhancement or preservation of trees, as well as the removal or prevention of any and all damage to any Street Trees caused by tree pests, blights, diseases, or injury.
- 2.7 Tree Injury means to harm, damage, misuse, or contribute ill-effect toward a tree or its root system.
- 2.8 Topping means the cutting back to stubs of limbs larger than three inches (3") in diameter within the tree's crown (top) so as to remove or damage the normal canopy.
- 2.9 Tree Manual means that document created and maintained by the Tree Advisory Committee that provides best practices for tree care within the City.
- 2.10 Shall is mandatory and not merely suggestive.
- 2.11 Person means any person, firm, partnership, association, corporation, contractor, sub-contractor, company, or organization of any kind.

2.12 Utility Companies means both public and private companies, their employees, and contractors.

3) Tree Advisory Committee

3.1 Purpose – Duties

The Franklin Tree Advisory Committee shall serve in an advisory capacity regarding the care of trees within the City of Franklin (“City”). It shall be the responsibility of the tree advisory committee to:

- a. Advise the Franklin Park Board & Board of Public Works & Safety in formulating policies and practices of urban forestry.
- b. Promote public education on the proper selection, planting, and care of trees by assisting the City with the publication of the City of Franklin Tree Care Manual.
- c. Assist the City in its efforts to fund urban forestry projects through grants, community events and outreach programs.
- d. Provide information and advice, as requested, to the Franklin Park Board & Board of Public Works & Safety on cases before it regarding trees.

3.2 Appointments

The Franklin Tree Advisory Committee shall consist of six to eight members. Three members shall be appointed by the Mayor with the remaining members appointed by the Park Board, serving two-year terms. The City Arborist shall serve on the committee as an advisory non-voting member and serve as the City liaison to the advisory committee. Appointed members shall serve at the pleasure of the Park Board that has the ability to remove a member at any time, for any reason deemed sufficient to that body. Members of the Tree Advisory Committee shall serve without compensation. The Tree Advisory Committee will report to the Park Board on at least a quarterly basis.

3.3 Meetings – Procedures

The Franklin Tree Advisory Committee shall meet on a quarterly basis, electing a chairperson and vice-chairperson annually and keeping a written record of its proceedings. In any event, the Tree Advisory Committee shall meet on a quarterly basis, unless a special meeting is called by the Committee Chair, and shall advertise those meeting times and places in accordance with the Indiana Open Door Law.

4) Regulations

4.1 Except as otherwise permitted, the planting and care of all Street Trees shall be done by, or under the direction of Street Commissioner, City Arborist and the Board of Public Works & Safety, and in accordance with the Tree Care Manual.

4.2 The City’s Street Commissioner or public utilities may trim or remove trees in emergency situations. INDOT may trim or remove trees that could endanger traffic on state highways within the City limits. In emergencies, when a tree has been severely damaged, or injured by storms and other causes, or is obstructing utility service, the City’s Street Commissioner or public utility may resort to topping or other severe cutting back of limbs on Street Trees.

4.3 Public utilities may perform Street Tree care as necessary for the maintenance of utility service and as is prescribed by state law, but Utilities remain responsible for proper pruning (tree care), and replacement of Street Trees which must be removed, or become injured in the course of maintaining utility lines.

4.4 It is unlawful for any person to top or prune horizontally any branch more than one inch (1”) in diameter, or cut limbs within the tree’s canopy back to stubs larger than three

inches (3") in diameter on any Street Tree without first coordinating with the Street Department/City Arborist.

4.5 The owner (as determined by the current deed of record) of property abutting public rights-of-way may request and obtain a permit to perform maintenance on, or to plant, Street Trees at his or her own risk and expense. All tree care shall be in accordance with the Tree Care Manual. Owners who remove (with or without a permit) as healthy tree shall be required to replace that tree.

4.6 An owner shall hire only ISA Certified Arborists to perform routine Street Tree care or maintenance. The arborist must be licensed and insured prior to completing the work.

5) Adoption of Tree Care Manual.

5.1 The enclosed Tree Care Manual is adopted as the City's program for the protection, care and maintenance of trees along public rights-of-way;

5.2 Changes to the Tree Care Manual will be recommended by the Tree Advisory Committee and adopted by the City of Franklin Board of Public Works & Safety.

6) Construction of Clause Headings. The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain;

7) Repeal of Conflicting Ordinances. The provisions of all other ordinances in conflict with the provisions of this ordinance are of no further force or effect, and are now repealed;

8) Severability of Provisions. If any part of this ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this ordinance;

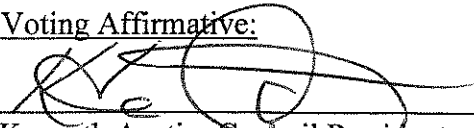
9) Duration and Effective Date. The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) on day of the passage and adoption of this ordinance by signature of the executive in this manner prescribed by Indiana Code 6-4-6-15, 16.


Introduced and Filed on the 17th day of September, 2018. A motion to consider same on the First Reading or day of introduction was (not offered) (sustained by a vote of ___ in Favor and ___ Opposed, pursuant to Indiana Code 36-4-6-13.)


DULY PASSED on this ___ day of October, 2018 by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote of ___ in Favor and ___ opposed.

City of Franklin, Indiana, By its Common Council:

Voting Affirmative:


Kenneth Austin, Council President


Andrew Eggers, Vice-President


Joseph P. Abban

Voting Opposed:

Kenneth Austin, Council President

Andrew Eggers, Vice-President

Joseph P. Abban

Daniel Blankenship
Daniel Blankenship

Daniel Blankenship

Danny Richards
Danny Richards

Danny Richards

Robert D. Heuchan
Robert D. Heuchan

Robert D. Heuchan

Richard L. Wertz
Richard L. Wertz

Richard L. Wertz

Attest:

Jayne Rhoades
Jayne Rhoades
City Clerk-Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana Code § 36-4-6-15, 16, this 1st day of October, 2018 at 6:10 pm o'clock a.m./p.m.

Jayne Rhoades
Jayne Rhoades
City Clerk-Treasurer

This ordinance having been passed by the legislative body and presented to me [Approved by me and duly adopted, pursuant to Indiana Code § 34-4-6-16(a)(1)] [Vetoed, pursuant to Indiana Code § 34-4-6-16(a)(2)], this 1st day of October, 2018 at 6:10 pm o'clock a.m./p.m.

Stephen Barnett
Stephen Barnett
Mayor

Attest:

Jayne Rhoades
Jayne Rhoades
City Clerk-Treasurer

Prepared by: Lynnette Gray