

THE CITY OF SOUTH EUCLID
SCHEDULE OF MEETING
Wednesday September 16, 2015
8:00 PM

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

3. APPROVAL OF MINUTES: June 22, 2015; July 13, 2015; July 27, 2015; & August 3, 2015 (Special Meeting)

4. SPECIAL PRESENTATION: Recognizing the Graduates of the 2015 Youth Police Academy.

5. OPEN MEETING

6. REPORT OF COMMITTEES

SAFETY COMMITTEE

1. ORDINANCE 11-15 CREATING NEW SECTION 1550.24 "FIRE AND SMOKE DAMPER INSPECTIONS" OF CHAPTER 1550 "MISCELLANEOUS REGULATIONS" OF TITLE FIFTEEN "FIRE PREVENTION CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. ~~AND DECLARING AN EMERGENCY.~~
THIRD READING.

ZONING & PLANNING COMMITTEE

1. RESOLUTION 15-15 GRANTING A CONDITIONAL USE PERMIT TO THE MUSEUM OF AMERICAN PORCELAIN ART AND THE SOUTH EUCLID/LYNDHURST HISTORICAL SOCIETY, LOCATED AT 4629 AND 4645 MAYFIELD ROAD IN THE CITY OF SOUTH EUCLID. **THIRD READING.**

7. LEGISLATION REQUESTED BY CITY COUNCIL

1. ORDINANCE 20-15 AN ORDINANCE AMENDING CHAPTER 943 "TREE COMMISSION/TREES" OF PART NINE "STREETS AND PUBLIC SERVICES" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. FIRST READING.

8. MAYOR'S REPORT

9. LEGISLATION REQUESTED BY THE MAYOR AND ADMINISTRATION

1. RESOLUTION 28-15 RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER. FIRST READING.

2. RESOLUTION 29-15 AUTHORIZING THE MAYOR TO CONVEY CERTAIN REAL PROPERTY OF THE CITY OF SOUTH EUCLID, OHIO TO ONE SOUTH EUCLID. FIRST READING.

3. RESOLUTION 30-15 AUTHORIZING THE MAYOR TO APPLY FOR A GRANT UNDER THE CUYAHOGA COUNTY "COMPETITIVE MUNICIPAL PROGRAM": 2016 COMMUNITY DEVELOPMENT BLOCK GRANT FUND; AND DECLARING AN EMERGENCY. FIRST READING.
4. ORDINANCE 19-15 AN ORDINANCE AMENDING SECTION 505.14 "ANIMALS PROHIBITED IN CERTAIN PLACES" OF CHAPTER 505 "ANIMALS AND FOWL" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. FIRST READING.

10. LAW DIRECTOR'S REPORT

11. LETTERS AND COMMUNICATIONS

- 12. ADJOURN TO EXECUTIVE SESSION:** For the purpose of discussing pending litigation.

13. ADJOURN TO REGULAR MEETING OF COUNCIL

14. ADJOURN

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 11-15
INTRODUCED BY: Miller
REQUESTED BY: Gelfand & Fiorelli

May 26, 2015
As Amended by the Safety Committee: July 13, 2015
Second Reading: July 27, 2015
Third Reading: September 16, 2015

AN ORDINANCE

CREATING NEW SECTION 1550.24 "FIRE AND SMOKE DAMPER INSPECTIONS" OF CHAPTER 1550 "MISCELLANEOUS REGULATIONS" OF TITLE FIFTEEN "FIRE PREVENTION CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. ~~AND DECLARING AN EMERGENCY.~~

WHEREAS, The City of South Euclid would like to provide inspections for Heating Ventilation Air Conditioning (hereinafter "HVAC") fire and smoke dampers located within all City owned and/or leased buildings, and

WHEREAS, providing said inspections will ensure that the City of South Euclid is in compliance with the most up-to-date National Fire Protection Associations (hereinafter "NFPA") regulations, and

NOW THEREFORE BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

~~Section 1:~~ That new Section 1550.24 "Fire and Smoke Damper Inspections" of Chapter 1550 "Miscellaneous Regulations" of Title Fifteen "Fire Prevention Code" of the Codified Ordinances of the City of South Euclid be hereby created to read as follows:

"Section 1550.24 FIRE AND SMOKE DAMPER INSPECTIONS IN CITY OWNED OR LEASED BUILDINGS

- (a) Adoption by Reference. Pursuant to Ohio R.C. 731.233, there is hereby adopted by the Municipality, for the purposes of prescribing regulations governing hazardous to life and prosperity from fire, some and explosion, the requirement for fire and smoke damper inspections conducted in accordance with NFPA standards sections 105.6.5.2 through 105.6.5.12 as well as sections 105.6.3 and 105.6.6 as adopted, published and recommended by NFPA, save and except such portions as may hereinafter be deleted or amended. Said NFPA standards are incorporated in this chapter by reference as if fully set forth as length herein as it relates to Fire and Smoke Damper Inspections, and such Code shall be known as the Fire Prevention Code of the Municipality.
- (b) Regularity and Monitoring Inspections. All fire and smoke damper units in buildings that are city owned or leased shall be inspected every four (4) years. Compliance with this inspection requirement shall be monitored by the Building Department and Bureau of Fire Prevention.
- (c) Regulations Governing Inspections and Requirements for Inspectors. The inspections shall be conducted in accordance with NFPA standards Sections 106.6.5.2 through 105.6.5.12 and Sections 105.6.3 and 105.6.6. The inspections shall be conducted by technicians and contractors who have been certified by the International Certification Board (hereinafter referred to as "ICB") and American National Standards Institute (hereinafter referred to as "ANSI") to ensure the quality of the inspection process.
- (d) Record of Inspections and Repairs. The results of the inspections are to be given to the Building Department within thirty (30) days of the completion of the inspection. The Building Department will keep those inspection reports until the next inspection is completed four (4) years later. If the fire and smoke damper systems are found to be faulty, repairs must be completed and approved by an ICB and ANSI certified technician and contractor within sixty (60) days from the date the system was found to be faulty.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 is hereby determined to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety and for the further reason that the same effects the day-to-day business of various departments of the municipality.~~ Wherefore, this Ordinance shall take effect upon passage and approval

Passed this _____ day of _____, 2015.

David B. Miller, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 15-15
INTRODUCED BY: Miller
REQUESTED BY: Planning Commission

May 26, 2015
Second Reading: July 13, 2015
Third Reading: September 16, 2015

A RESOLUTION

GRANTING A CONDITIONAL USE PERMIT TO THE MUSEUM OF AMERICAN PORCELAIN ART AND THE SOUTH EUCLID/LYNDHURST HISTORICAL SOCIETY, LOCATED AT 4629 AND 4645 MAYFIELD ROAD IN THE CITY OF SOUTH EUCLID.

WHEREAS, the City of South Euclid recognizes that various public and private institutions and facilities are essential to the community; and

WHEREAS, the Planning Commission, after careful study, has recommended to Council in a vote of 4-0-0 that a Conditional Use Permit be granted to the Museum of American Porcelain Art and the South Euclid/Lyndhurst Historical Society located at 4629 and 4645 Mayfield Road; and

WHEREAS, notice of a public hearing on the aforesaid requested Conditional Use Permit has been duly given, and a full public hearing has been held thereon by the Planning Commission pursuant to such notice and as prescribed by law; and

WHEREAS, the Council of the City of South Euclid deems that the aforesaid Conditional Use Permit should be given in that a hardship exists in the land and that the standards set forth in Chapter 722 of the South Euclid Zoning Code have been achieved.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That a Conditional Use Permit is hereby granted to the Museum of American Porcelain Art and the South Euclid/Lyndhurst Historical Society, located at 4629 and 4645 Mayfield Road in the City of South Euclid, Ohio, per the following conditions:

- Condition 1:** That both pole signs located on the property shall be removed at the time the South Euclid/Lyndhurst Library vacates the premises.
- Condition 2:** That all requirements as dictated by the Codified Ordinances are observed.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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: This Resolution shall take effect and be in full force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2015.

David B. Miller, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

Resolution 28-15

RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER

(CITY COUNCIL) Revised Code, Secs. 5705.34-5705.35

The Council of the City of South Euclid, Cuyahoga County, Ohio, met in Regular session on the 16th day of September 2015, at the office of City Hall with the following members present:

Mr./Mrs. _____ moved the adoption of the following Resolution:

WHEREAS, This Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1st, 2016 ; and

WHEREAS, The Budget Commission of Cuyahoga County, Ohio, has certified its action thereon to this Council together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation; therefore, be it

RESOLVED, By the Council of the City of South Euclid, Cuyahoga County, Ohio, that the amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted; and be it further

RESOLVED, That there be and is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

SCHEDULE A
SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET
COMMISSION AND COUNTY FISCAL OFFICER'S ESTIMATED TAX RATES

FUND	Amount to Be Derived from Levies Outside 10 M. Limitation	Amount Approved by Budget Commission Inside 10 M. Limitation	County Fiscal Officer Estimate of Tax Rate to be Levied	
			Inside 10 M. Limit	Outside 10 M. Limit
	Column II	Column IV	V	VI
General Fund			3.05	6.95
General Bond Retirement Fund				0.00
Police Pension			0.30	
Park Fund				0.00
Recreation Fund				
Fire Pension Fund			0.30	
Street Construction Fund				0.00
Police Fire Safety Fund				3.25
TOTAL	\$0	\$0	3.65	10.20

SCHEDULE B

LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES

FUND	Maximum Rate Authorized to Be Levied	Co. Fiscal Officer's Est. of Yield of Levy (Carry to Schedule A, Column II)
GENERAL FUND:		
Current Expense Levy authorized by voters on for not to exceed _____ years.	,20	
Current Expense Levy authorized by voters on for not to exceed _____ years.	,20	
Total General Fund outside 10m. Limitation.		
Park Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Recreation Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.		
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
Fund: Levy authorized by voters on for not to exceed _____ years.	,20	
	-	
	-	

and be it further
RESOLVED, That the Clerk of this Council be and he is hereby directed to certify a copy of this Resolution to the Fiscal Officer of said County.

Mr./Mrs. _____ seconded the Resolution and the roll being called

upon its adoption the vote resulted as follows:

Mr./Mrs _____

Mr./Mrs _____

Mr./Mrs _____

Adopted the _____ day of _____, 20____.

Attest:

 President of Council

 Clerk of Council

CERTIFICATE OF COPY
ORIGINAL ON FILE

The State of Ohio, Cuyahoga County, ss.

I, Keith Benjamin, Clerk of the Council of the City
of South Euclid within and for said County, and in whose custody the Files
and Records of said Council are required by the Laws of the State of Ohio to be kept, do hereby
certify that the foregoing is taken and copied from the original _____

Resolution 28-15

now on file, that the foregoing has been compared by me with said original document,
and that the same is a true and correct copy thereof.

WITNESS my signature, this _____ day of _____, 20____

Clerk of Council

No. 28-15

COUNCIL OF THE CITY OF

South Euclid

Cuyahoga County, Ohio.

RESOLUTION
ACCEPTING THE AMOUNTS AND RATES
AS DETERMINED BY THE BUDGET
COMMISSION AND AUTHORIZING THE
NECESSARY TAX LEVIES AND CERTIFYING
THEM TO THE COUNTY FISCAL OFFICER

(City Council)

Adopted _____, 20____

Clerk of Council

Filed _____, 20____

County Fiscal Officer

By _____
Deputy

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 29-15
INTRODUCED BY: Miller
REQUESTED BY: Mayor

September 16, 2015

A RESOLUTION

AUTHORIZING THE MAYOR TO CONVEY CERTAIN REAL PROPERTY OF THE CITY OF SOUTH EUCLID, OHIO TO ONE SOUTH EUCLID.

WHEREAS, the City of South Euclid is the owner of certain parcels of vacant land, as defined in Exhibit A attached hereto; and

WHEREAS, the subject parcels were deeded to the City of South Euclid through the Cuyahoga County tax foreclosure process or through private donation; and

WHEREAS, the Council of the City of South Euclid has, upon study and consideration, determined that said parcels do not serve and are not needed for any municipal purpose; and

WHEREAS, in accordance with the agreement for professional services, the City's Community Development Corporation, One South Euclid, has the ability to dispose of the subject parcels and return the land to productive use.

NOW THEREFORE BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That the Council has determined the subject parcels do not serve any municipal purpose.

Section 2: That the Mayor be and she is hereby authorized to convey said parcels of real property (as shown in Exhibit A, attached hereto) to the City's Community Development Corporation, One South Euclid, in order to dispose of the property and return the land to productive use.

Section 3: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 4: Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2015.

David B. Miller, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

EXHIBIT A:

Vacant Lot to be conveyed to One South Euclid:

PP#	Address	Street Name
701-06-038	0000	South Belvoir Blvd.
701-06-039	0000	South Belvoir Blvd.
704-12-019	4246	Ellison Road
701-04-012	3870	Covington Road

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 30-15
INTRODUCED BY: Miller
REQUESTED BY: Mayor

September 16, 2015

A RESOLUTION

AUTHORIZING THE MAYOR TO APPLY FOR A GRANT UNDER THE CUYAHOGA COUNTY "COMPETITIVE MUNICIPAL PROGRAM": 2016 COMMUNITY DEVELOPMENT BLOCK GRANT FUND; AND DECLARING AN EMERGENCY.

WHEREAS, the City of South Euclid, Ohio wishes to apply for Community Development Block Grant Funds made available through the Cuyahoga County Department of Development for the purpose of funding the Operation Home Improvement: Exterior Maintenance Program, in the City's qualified Improvement Target Areas to assist qualified low/mod income homeowners with exterior code violations/property improvements.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of South Euclid, Ohio:

Section 1: That the Mayor be and she and the Director of Community Services are hereby authorized to submit an application for funds for a Community Development Block Grant to the Cuyahoga County Department of Development.

Section 2: That the Mayor and the Director of Finance are hereby authorized and directed to enter into such agreements with Cuyahoga County as may be necessary for the application for and receipt of Community Development Block Grant Funds and related funding, and provide matching funds not to exceed \$7,000 as a component of the grant application, and as provided by law. Said agreements shall be in substantially the same form as approved by the Director of Law.

Section 3: That the Clerk be and is hereby authorized and directed to transmit a certified copy of this Resolution to the Cuyahoga County Department of Development.

Section 4: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 5: That this Resolution is declared to be an emergency measure necessary for the preservation of the public peace, health, and safety and for the further reason that a vital function of the municipal government is effected thereby. This Resolution shall take effect upon passage and approval.

Passed this _____ day of _____, 2015.

David B. Miller, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 19-15
INTRODUCED BY: Miller
REQUESTED BY: Mayor

September 16, 2015

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 505.14 "ANIMALS PROHIBITED IN CERTAIN PLACES" OF CHAPTER 505 "ANIMALS AND FOWL" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Council of the City of South Euclid recognizes the need to periodically review and amend the codified ordinances in order to best serve the residents of the community; and

WHEREAS, the Council desires to amend the codified ordinances to allow dogs in the city parks so that residents are better able to utilize the facilities.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 505.14 "Animals Prohibited in Certain Places" of Chapter 505 "Animals and Fowl" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

505.14 ANIMALS PROHIBITED IN CERTAIN PLACES.

(a) No person owning, keeping or having custody of any animal shall take, lead or carry such animal:

(1) Into any store, restaurant, or place of business selling or offering for sale, goods, merchandise, food and/or groceries, whether for consumption in the store, restaurant or place of business;

(2) Upon the grounds of any school;

(3) Upon the grounds of any public park with the exception of dogs which are kept on leash, properly cared for and cleaned up after, kept under the control of the owner at all times, and do not enter any playground area, tennis court, ball field, restroom facility, or community garden; or dogs which are ~~for dogs to be allowed only~~ in the fenced in area of Quarry Park North that is designated as the "dog park".

(4) In any public building;

(5) Upon the center strip of Monticello Boulevard;

(6) Upon the center strip of Belvoir Boulevard;

(7) Upon the center strip of Warrensville Center Road;

nor permit or allow such animal to enter any such store, place of business or public building, or be upon such grounds, within the City.

This section shall not apply to stores or places of business dealing in or servicing live animals, such as pet shops or veterinary hospitals, or to animals permitted upon school grounds by authority of the Superintendent of Schools.

(b) Whoever violates this section is guilty of a minor misdemeanor for the first offense; for each subsequent offense, such person is guilty of a misdemeanor of the fourth degree.

Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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: This Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2015.

David B. Miller, President of Council

Attest:

Approve:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 20-15
INTRODUCED BY: Miller
REQUESTED BY: Goodman

September 16, 2015

AN ORDINANCE

AN ORDINANCE AMENDING CHAPTER 943 "TREE COMMISSION/TREES" OF PART NINE "STREETS AND PUBLIC SERVICES" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Chapter 943 "Tree Commission/Trees" of Part Nine "Streets and Public Services" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

- 943.01 Short title.
- 943.02 Definitions.
- 943.03 Tree Commission; creation and establishment.
- 943.04 Director.
- 943.05 Compensation.
- 943.06 Operation.
- 943.07 Duties and responsibilities.
- 943.08 Master Tree Plan.
- 943.09 Tree species to be planted.
- 943.10 Spacing.
- 943.11 Distance from curb and sidewalk.
- 943.12 Distance from street corners and fire hydrants.
- 943.13 Utilities.
- 943.14 Public tree care.
- 943.15 Removal, replanting and replacement of public trees.
- 943.16 **Tree Canopy Mitigation/Topping** of public trees.
- 943.17 Obstruction; trees pruned. (Repealed)
- 943.18 Dead or diseased tree removal on private property. (Repealed)
- 943.19 Abuse and/or mutilation of public trees.
- 943.20 Placing materials on public property.
- 943.21 Protection of public trees.
- 943.22 Public utility companies.
- 943.23 Emergencies.
- 943.24 Interference with Tree Commission.
- 943.25 Registration of tree experts. (Repealed)
- 943.26 Commission as trustee.
- 943.27 **Establishment of fund.**
- 943.28 Review by Council.
- 943.29 Appeal procedure.
- 943.30 Conflict.
- 943.99 Penalty.

CROSS REFERENCES

Destruction of trees - see GEN. OFF. 541.06

Trees generally - see S. & P.S. Ch. 907

943.01 SHORT TITLE.

This chapter shall be known and may be cited as the Tree Ordinance of the City of South Euclid, Ohio.

(Ord. 16-92. Passed 7-27-92.)

943.02 DEFINITIONS.

As used within this chapter, the following terms shall have the meanings set forth in this section:

(a) "Tree" means:

(1) Any living woody plant with needles or scale-type leaves that has a well-defined stem or stems with a diameter of at least six inches at four and one-half feet from the surface of the ground.

(2) Any living, self-supporting woody broad leaf plant that has a well-defined stem or stems with a diameter of at least two inches at four and one-half feet from the surface of the ground.

(3) Any living self-supporting woody plant that has a well-defined stem or stems which has been intentionally cultivated and established.

(b) "Public trees" includes all trees now or hereafter growing on any street, park or any other public site.

(c) "Streets, alleys, highways or ways" means the entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

(d) "Property line" means the legal boundary line between private and City-owned land.

(e) "Tree lawn" means that part of a street not covered by a sidewalk or other paving, lying between the property line and that portion of the street usually used for vehicular traffic.

(f) "Property owner" means the person owning such property as shown by the County Auditor's Plat of Cuyahoga County, State of Ohio.

(g) "Large trees" means those trees ~~expected to attain~~ ~~attaining~~ a height of forty-five feet or more.

(h) "Medium trees" means those trees ~~expected to attain~~ ~~attaining~~ a height of thirty to forty-five feet.

(i) "Small tree" means those trees ~~expected to attain a height~~ under thirty feet.

(j) "Remove" or "removal" means the removal of all above and below ground parts, including the stump and roots.

(k) "Diameter at Breast Height" (D.B.H.) means a tree's diameter in inches measured by a diameter tape at four and one-half feet from the surface of the ground. On trees having multiple stems, the largest diameter stem shall be measured.

(l) "Parks" includes any City public spaces designated for recreation and/or conservation.

(m) "Public site" includes any other ground owned by the City.

(n) "Dripline" means the approximately circular vertical extension to the ground of the outermost branches and/or leaves of the tree as an indication of the spread of the root system.

(o) **"Critical Root Zone" is an area equivalent to one foot per inch of Diameter at Breast Height from the tree.**

(Ord. 16-92. Passed 7-27-92.)

943.03 TREE COMMISSION; CREATION AND ESTABLISHMENT.

There is hereby created and established a Tree Commission for the City, to consist of seven members, as follows:

(a.) Members are to be appointed in the following manner:

Two voting Public Members appointed by the Mayor; Four voting Public Members appointed by Council in a manner to be determined by that body. One voting seat shall be occupied by the City Arborist or a Certified Arborist serving in that position under contract. One voting seat shall be occupied by a representative of the Building and Housing Department. The remaining voting seat shall be occupied by a member of Council appointed by the President of Council. The Director of Public Service shall occupy a non-voting seat on the Commission. Up to two additional ex-officio (non-voting) members may be appointed upon agreement between Council and the Mayor so as to insure that expertise in urban forestry is well represented.

(b.) Terms – Public Members shall serve four-year terms. Terms shall begin on either January 1 or July 1 of the year in which a member is appointed. Public Members may be reappointed to no more than three consecutive terms. A vacancy occurring during the term of any member of the Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

(c.) Eligibility – Public Members shall be residents of the City of South Euclid.

(d.) Qualifications – Public Members shall, within three years of their appointment, complete either Tree Commission Academy presented by the Ohio Department of Natural Resources Division of Forestry or receive other training in urban forestry, tree care, and public tree management. Those who do not fulfill this obligation are not eligible for reappointment to a new term.

~~The seven members are to be qualified electors of the City, not holding other public office within the City, and each council person is to appoint one member to the Commission for a term of four years.~~

~~A vacancy occurring during the term of any member of the Commission shall be filled for the unexpired term in the manner authorized for an original appointment.~~

~~(Ord. 16-92. Passed 7-27-92.)~~

943.04 DIRECTOR.

The Director of Public Service shall serve as the Ex Officio Director of the Tree Commission. (Ord. 42-99. Passed 6-28-99.)

943.05 COMPENSATION.

Members of the Tree Commission shall serve without compensation, but shall be entitled to reimbursement for any and all necessary expenditures in carrying out the duties of such Commission and may retain the services of qualified professionals when necessary to facilitate the function of such Commission.

(Ord. 16-92. Passed 7-27-92.)

943.06 OPERATION.

The Tree Commission shall meet **at least three times each year** ~~once every two months~~ and shall hold its first meeting **within three** ~~in the months of following enactment of this chapter,~~ at which time it shall elect a chairman and vice-chairman and thereafter shall elect officers at its first meeting ~~in January~~ of each year. A majority of **voting** members shall constitute a quorum and any actions of the Commission may be taken by a majority of the **voting** members present at the meeting at which the action is taken. **A special meeting may be called by the chairperson, or in his/her absence, the vice-chairperson, or by any two Tree Commissioners. Members may participate in up to two meetings per year via conference or video conference interaction.** Meetings of the Tree Commission shall be open to the public and announced in advance **via the city website or other appropriate means.** The Commission shall keep minutes of its meetings and file them with the Clerk of Council. ~~A special meeting may be called by the chairman, or in his absence, the vice-chairman or by any two Tree Commissioners.~~

(Ord. 42-99. Passed 6-28-99.)

943.07 DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Tree Commission to develop, administer and maintain a written plan to be known as the Master Tree Plan.

The Commission, when requested by Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. The Commission shall study the problems and determine the needs of the City in connection with its tree planting **and maintenance** program.

The Commission shall recommend to the Director of Public Service, the type and kind of trees to be planted upon such City streets or parts of City streets or in parks as designated.

The Commission shall assist the Director of Public Service, as well as Council and residents of the Municipality in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same are on private or public property and shall make such recommendations from time to time to Council as ~~to desirable legislation~~ concerning the tree planting program and activities for the Municipality. The Commission shall work in conjunction with civic and public interest groups devoted to tree care and preservation. **The Commission shall plan and sponsor the city's annual Arbor Day celebration on the last Friday in April.**

The Commission shall convene regular and special meetings at which the subject of trees, insofar as it relates to the Municipality, may be discussed by members of the Commission, officers and personnel of the City and its several divisions and all others interested in the tree program.

(Ord. 42-99. Passed 6-28-99.)

943.08 MASTER TREE PLAN.

The Tree Commission shall have the authority to formulate a Master Tree Plan. The Master Tree Plan shall include the inventory of existing public trees and shall specify the requirements for the care, preservation, pruning, planting, replanting and removal or disposition of trees in parks, along streets and on other public sites and shall specify the species of tree to be planted in these areas. The Master Tree Plan shall be updated and presented to Council **every three years**

annually and upon their acceptance and approval shall constitute the official comprehensive Master Tree Plan for the City. From and after the effective date of the Master Tree Plan, or any amendment thereof, all planting, **removal and maintenance shall conform thereto.**

(a) The Commission shall have the responsibility of inventory (and classifying as to location, species, size, condition and evaluation) for the existing public trees, as an integral part of the Master Tree Plan. This inventory shall be updated annually.

(b) The Commission shall consider all existing and proposed buildings, utilities and environmental factors **including climate change and pests** when recommending the planting of a specific species or other work for all streets and public sites within the City.

(c) The Commission shall have the authority to amend or add to the Master Tree Plan at any time that circumstances make it advisable.

(Ord. 16-92. Passed 7-27-92.)

943.09 TREE SPECIES TO BE PLANTED.

The Tree Commission shall develop and maintain a list of desirable large, medium and small trees for planting in parks, along streets and on other public sites based on mature height, **soil condition, surrounding conditions, and species suitability. The largest tree that is suitable for each site shall be the default choice.** Lists of trees not suitable for planting in these areas shall also be created by the Commission.

(Ord. 16-92. Passed 7-27-92.)

943.10 SPACING.

The spacing of trees planted along streets shall be in accordance with the three species size classes listed in Section 943.09. No trees may be planted closer together than the following: large trees, forty feet; medium trees, thirty feet; and small trees, twenty feet; except in special plantings designed or approved by the Tree Commission.

(Ord. 42-99. Passed 6-28-99.)

943.11 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks shall be in accordance with the three species size classes listed in Section 943.09. No trees may be planted closer to any curb, curblines or sidewalk than **a distance that will allow a healthy root system without posing risk of damage to curb or sidewalk.** ~~the following: large trees, four feet; medium trees, three feet; and small trees, two feet.~~

(Ord. 16-92. Passed 7-27-92.)

943.12 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No tree shall be planted closer than ~~thirty-five~~ **twenty-five** feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No tree shall be planted closer than ten feet from any fire hydrant.

(Ord. 16-92. Passed 7-27-92.)

943.13 UTILITIES.

No public tree other than those species referred to as small trees in Section 943.09 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line or other utility.

(Ord. 16-92. Passed 7-27-92.)

943.14 PUBLIC TREE CARE.

The City shall have the right to plant, prune, maintain and remove all public trees, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public sites. The Tree Commission may remove or cause to be removed, any public tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious disease, insect or fungus.

This section does not prohibit the planting of a tree along streets by property owners providing that the selection of such tree is in accordance with Sections 943.09 through 943.13. No property owner shall plant a tree within the right of way without first obtaining the written approval of the Commission.

(Ord. 16-92. Passed 7-27-92.)

943.15 REMOVAL, REPLANTING AND REPLACEMENT OF PUBLIC TREES.

Whenever it is necessary to remove a public tree in connection with the paving of a sidewalk or the widening of a portion of a street or highway, the City shall ~~cause to replant the tree,~~ **cause it to be replanted**, or replace it with a species listed in Section 943.08. This requirement shall be satisfied if an equivalent number of trees **of the largest possible size** is planted at the nearest appropriate location as determined by the Tree Commission.

No person shall remove a public tree for the purpose of construction or any other reason, without the written permission of the Commission. The Commission may require replacement of a removed tree as a condition to the Commission's approval. Such replacement shall be in accordance with the species listed in Section 943.08. The person or property owner shall bear the cost of removal and replacement of all public trees removed.
(Ord. 16-92. Passed 7-27-92.)

943.16 MITIGATION OF FOREST CANOPY LOSS AND MAINTENANCE OF CANOPY COVER/TOPPING OF PUBLIC TREES.

In the event that a person or entity removes a tree for any reason other than the tree having posed a hazard or having fallen, that person or entity shall compensate for the loss of canopy in one of the following ways:

(a.) by planting a tree with a mature DBH equivalent to the DBH of the removed tree, or trees equivalent to that number; or

(b.) by depositing into the Tree Canopy Fund an amount that represents the city's cost to obtain and plant trees to replace the removed tree elsewhere in the city at the 2x DBH rate.

(c) It shall be unlawful as a normal practice for any person, firm or City department to top any public tree. "Topping" means the severe cutting back of limbs to stubs larger than three inches in diameter so as to remove the normal canopy and disfigure the tree. Public trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Tree Commission.

(Ord. 16-92. Passed 7-27-92.)

943.17 OBSTRUCTION; TREES PRUNED. (REPEALED)

(EDITOR'S NOTE: Section 943.17 was repealed by Ordinance 42-99, passed June 28, 1999.)

943.18 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. (REPEALED)

(EDITOR'S NOTE: Section 943.18 was repealed by Ordinance 42-99, passed June 28, 1999.)

943.19 ABUSE AND/OR MUTILATION OF PUBLIC TREES.

No person shall intentionally damage, cut, carve, transplant or remove any public tree. Unless specifically authorized by the Tree Commission, ~~no person shall intentionally damage, cut, carve, transplant or remove any public tree;~~ attach any rope, wire, nails, advertising posters or other contrivance to any public tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or heat therefrom will injure any portion of any public tree. No person shall pour salt water or a chemical or chemicals upon any street in such a way as to injure any tree planted or growing thereon. The City shall not be restricted in the use of anti-icing materials. **No person shall pile mulch or soil, or allow mulch or soil to be piled, around a public tree in a way that allows the mulch or soil to contact the base or trunk of the tree. Mulch or additional soil must be kept at least three inches away from the base of the tree.**

(Ord. 16-92. Passed 7-27-92.)

943.20 PLACING MATERIALS ON PUBLIC PROPERTY.

No person shall deposit, place, store or maintain upon any public place or the City, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any public tree growing therein, except by written approval of the Tree Commission.

(Ord. 16-92. Passed 7-27-92.)

943.21 PROTECTION OF PUBLIC TREES.

All public trees located near any excavation or construction of any building, structure or street work, shall be guarded with a good substantial fence, frame or box not less than four feet high placed at ~~the dripline~~ **the edge of the Critical Root Zone, measured as a distance of one foot**

per inch of DBH of the tree. All laborers, building material, dirt or other debris shall be kept outside this barrier. The Tree Commission may permit a variance in cases where the barrier would impede the flow of traffic on a street, private street or driveway and where the dripline overhangs prescribed distance interferes with a building or permanent structure.

No person shall excavate any ditches or trenches within the Critical Root Zone dripline of a public tree or lay any impervious pavement drive within fifteen feet of a public tree without first obtaining the written approval of the Tree Commission.
(Ord. 16-92. Passed 7-27-92.)

943.22 PUBLIC UTILITY COMPANIES.

Public utility companies shall notify the Tree Commission prior to pruning any public tree for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural standards. If accepted arboricultural standards are not followed, the Commission shall immediately file a formal complaint with the Public Utilities Commission.
(Ord. 16-92. Passed 7-27-92.)

943.23 EMERGENCIES.

In the case of officially declared emergencies, such as windstorms, ice storms or other disasters, the requirements shall be waived so that the requirements of this chapter would in no way hinder public and/or private work to restore order in the City. This work shall follow maintenance standards as outlined by the Tree Commission.
(Ord. 16-92. Passed 7-27-92.)

943.24 INTERFERENCE WITH TREE COMMISSION.

No person shall hinder, prevent, delay or interfere with the Tree Commission, or any of its agents, while engaged in carrying out the execution or enforcement of this chapter on public or private property; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.
(Ord. 16-92. Passed 7-27-92.)

943.25 REGISTRATION OF TREE EXPERTS. (REPEALED)

(EDITOR'S NOTE: Section 943.25 was repealed by Ordinance 42-99, passed June 28, 1999.)

943.26 COMMISSION AS TRUSTEE.

The Tree Commission may act as trustee for any property, assets or funds donated to the Municipality for the care and maintenance of public trees, provided the donor designates or provides for the designation of the Commission as such trustee. In such an event, the Commission shall have all those powers and duties necessary to carry out the purpose of the trust.
(Ord. 16-92. Passed 7-27-92.)

943.27 ESTABLISHMENT OF FUND. (REPEALED)

There shall be established a Tree Canopy Fund for the purpose of receiving any property, assets or funds designated for the planting, care and maintenance of trees, as mitigation fees related to the removal of trees, or that shall be collected as tree assessments. Funds are to be used to support the Service Department's tree work and the services of the City Forester and/or City Arborist; for assisting private property owners with costs associated with leveling or replacing sidewalk blocks impacted by the roots of public trees; and for the planting, care, or removal of private property trees in danger of causing damage to property or for the purpose of maintaining sufficient tree canopy on public or private property. The Tree Commission shall review and approve any expenditures for any requests for assistance and shall approve any transfers to the city's general fund for support of the Service Department's tree-related activities.

(EDITOR'S NOTE: Section 943.27 was repealed by Ordinance 42-99, passed June 28, 1999.)

943.28 REVIEW BY COUNCIL.

Council shall have the right to review the conduct, acts and decisions of the Tree Commission.
(Ord. 16-92. Passed 7-27-92.)

943.29 APPEAL PROCEDURE.

Any adjustment of the standards required by this chapter or an appeal of a decision of the Tree Commission shall be taken to Council. Council upon receipt of a written request, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being sought, reasons such adjustments or requirements are being sought, reasons such adjustments are warranted and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. Council may approve, modify or deny the requested adjustment, based upon the possible unreasonable hardships involved in the case.

Council shall act on the application as expeditiously as possible and shall notify the applicant in writing within five **business** days of the action taken.

(Ord. 16-92. Passed 7-27-92.)

943.30 CONFLICT.

In the event of a conflict between any provisions of this chapter, including any rules and regulations adopted pursuant to its provisions and any provisions of any other ordinances of the City including any rules and regulations adopted pursuant to such ordinances, the more restrictive provision or provisions shall prevail.

(Ord. 16-92. Passed 7-27-92.)

943.99 PENALTY.

Any person or firm violating any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each separate offense; each day during which any violation of the provisions of this chapter occurs or continues shall be a separate offense. If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree is caused, the cost of repair or replacement of such tree shall be borne by the party in violation. The replacement value of trees shall be determined in accordance with the latest revision of "Valuation of Landscape Trees, Shrubs and Other Plants", as published by the International Society of Arboriculture.

(Ord. 16-92. Passed 7-27-92.)

Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety within the City and therefore should be adopted at the earliest possible time. Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2015

David B. Miller, President of Council

Attest:

Approve:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law