

Ordinance No. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING RENEWAL OF A CONTRACT WITH  
DEFIANCE COUNTY FOR REIMBURSEMENT OF EXPENSES  
INCURRED TO PROVIDE LEGAL SERVICES TO INDIGENT  
DEFENDANTS PROSECUTED IN MUNICIPAL COURT UNDER  
MUNICIPAL ORDINANCES**

**WHEREAS**, the State Public Defender allocates funds to Defiance County for payment of expenses incurred to provide legal services to indigent persons charged with offenses punishable by incarceration; and,

**WHEREAS**, a 2012 agreement between the City and County has enabled the County to allocate a portion of the funds received from the State Public Defender to payment of expenses incurred to provide constitutionally-required legal services to persons prosecuted for offenses proscribed by municipal ordinance; and,

**WHEREAS**, this agreement can be renewed annually by Ordinance of Council and Resolution of the Board of County Commissioners; and,

**WHEREAS**, on October 21, 2019, the Board of Commissioners of Defiance County, Ohio adopted a Resolution authorizing renewal of the agreement for calendar year 2020;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The agreement between the City of Defiance and County of Defiance entitled, "Agreement for Indigent Defense Services in Municipal Court (Assigned Counsel)" is hereby extended without modification for the period beginning January 1, 2020, and ending December 31, 2020.

**Section 2:** The City Finance Director is authorized to receive and disburse funds in accordance with the agreement during calendar year 2020.

**Section 3:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 4:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: \_\_\_\_\_, 2019

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2019

\_\_\_\_\_  
Mayor

Ordinance No. \_\_\_\_\_

**AN ORDINANCE DESIGNATING THE MAUMEE VALLEY PLANNING ORGANIZATION AS AGENT FOR THE CITY TO ADMINISTER THE FEDERAL EMERGENCY MANAGEMENT AGENCY HAZARD MITIGATION GRANT**

**WHEREAS**, the City has identified ten residential properties and two vacant lots that would qualify for demolition funding from the Federal Emergency Management Agency ("FEMA") Hazard Mitigation Grant; and,

**WHEREAS**, Council finds that the Maumee Valley Planning Organization ("MVPO") is the agency best equipped to apply for and administer the FEMA Hazard Mitigation Grant Program in Ordinance; and,

**WHEREAS**, Council finds that this agency designation promotes the guiding principles of collaboration and safety by working with other agencies to minimize the damage from future disasters;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** MVPO is hereby authorized to execute for and on behalf of the City of Defiance, Ohio, a charter municipality established under the laws and Constitution of the State of Ohio, applications for funding and file said applications with the appropriate state agency for the purpose of obtaining financial assistance under the Disaster Relief Act (Public Law 288, 23rd Congress) or otherwise available from the President's Disaster Relief Fund.

**Section 2:** All actions taken by MVPO to prepare, file, and encourage approval of the application for FEMA Hazard Mitigation Grant Program funds are ratified and confirmed.

**Section 3:** Council hereby authorizes MVPO to provide the necessary assurances and agreements to the Ohio Emergency Management Agency and FEMA for all matters relating to such Federal disaster assistance, assurances, and agreements as listed in the Grant Agreement.

**Section 4:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 5:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: \_\_\_\_\_, 2019  
\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2019  
\_\_\_\_\_  
Mayor

# Ordinance No. \_\_\_\_\_

## AN ORDINANCE AMENDING SECTION 161.01 AND ADDING CHAPTER 907 "TREE CARE & MAINTENANCE" TO THE CODIFIED ORDINANCES OF DEFIANCE, OHIO

**WHEREAS**, the City Shade Tree Commission studied methods to incorporate best practices in urban forestry and recommendations from the Ohio Department of Natural Resources ("ODNR"), Urban Forestry Division; and,

**WHEREAS**, the City Buildings, Lands, and Properties Committee of Council heard the proposals and recommended changes and additions to the Codified Ordinances of Defiance, Ohio;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** Section 161 01 of the Codified Ordinances of Defiance, Ohio is hereby amended to provide (deleted text stricken, newly added text underlined):

### 161.01 ESTABLISHMENT; COMPOSITION.

There is hereby established a Shade Tree Commission which shall consist of at least five resident electors of the municipality who are not otherwise employed by the municipality. Members shall not hold any elective or appointive office in the municipal government. Election or appointment of a member of the Shade Tree Commission to the Office of Mayor, President of Council or Member of Council shall disqualify that member from service on the Shade Tree Commission on the date on which such member assumes elective office. For purposes of this chapter, appointment of a municipal elector to the Defiance Municipal Library Board shall be deemed an appointment to State office and such Elector shall not be disqualified from contemporaneous service on the municipal Shade Tree Commission unless simultaneous service is prohibited by State regulations then in effect.

**Section 2:** Part IX, Streets, Utilities and Public Services Code of the Codified Ordinances of Defiance, Ohio shall be amended by adding Chapter 907, "Tree Care & Maintenance" as follows:

### Chap. 907. TREE CARE & MAINTENANCE

#### 907.01. DEFINITIONS

1. Certified Arborist is a professional arborist with a minimum of three years' full-time experience working in the professional tree care industry, who has passed a comprehensive examination and holds a current certification/credential as developed by the International Society of Arboriculture.
2. DBH (Diameter at Breast Height) is the tree's trunk diameter in inches at 4.5 feet from the base of the tree.
3. Person means any person, firm, partnership, association, corporation, company, the State of Ohio or a political subdivision, government agency or organization of any kind.
4. Public Lands are all lands owned by or leased to the municipality and privately-owned lands which have been dedicated by the owners thereof to public purposes and are customarily maintained by the City of Defiance.
5. Property Line means the outer edge of the private property line that borders with the right-of-way.
6. Property Owner means the person or organization owning such property as shown by the Defiance County, Ohio Auditor's Office including the executor, administrator, or beneficiary of the estate of a deceased owner.
7. Public Trees are trees, shrubs and other woody vegetation located on Public Lands other than rights-of-way.
8. Right-of-Way means an area of land duly dedicated or held by the City for free and unobstructed passage of residents, including paved streets, parking strips, and sidewalks within its limits.
9. 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.
10. Street or Highway means the entire width of every public right-of-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 platted alleys.
11. Street Trees are trees, shrubs and other woody vegetation on land lying within the street rights-of-way of the municipality.
12. Tree means a tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than from the base.
13. Tree Lawn means that part of the right-of-way, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
14. 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.

## 907.02. PRIVATELY OWNED TREES

### (a) DUTY OF PRIVATE PROPERTY OWNER

- (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 rooted into the ground, 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 or occupying property bordering on right of way upon which property there are any trees or shrubs which are designated as dead, dying, diseased, or hazardous or deemed a menace to the health, safety, and welfare of the people of Defiance, to remove or cause to be removed said tree(s) and/or shrub(s). If there are objections to the tree removal requirement by the property owner, the City will provide an assessment by a Certified Arborist.

### (b) CITY MAY REMOVE

- (1) The City Administrator 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, water lines, or other public infrastructure or otherwise creates a nuisance condition as described in 1317.01.B
- (2) The City Administrator 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, he shall give to the property owner written notice by certified mail of their findings and an order that such person remove said tree or injurious part thereof within forty five (45) days.
- (3) In either of the above situations, the City Administrator or his designee shall send a written notice by certified mail to the property owner indicating the required action (pruning or removal) to be taken. A period of thirty 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 City Administrator or his designee to enter upon the property and cause such action. The property owner or occupant shall be charged the actual cost of the work and cash payment shall be made within thirty days or the actual cost of the work shall be assessed to the property taxes.

## 907.03. PUBLIC TREES

### (a) CITY RESPONSIBILITY

The City of Defiance shall make all decisions regarding all trees growing on public lands and rights-of-way. Whenever it is necessary for the City to remove a tree from a City right of way, the City shall remove such trees and replace them or plant on another public property an equal number of trees to the satisfaction of the City Administrator.

### (b) ABUSE OR MUTILATION/PLACING MATERIALS ON PUBLIC PROPERTY

- (1) No person shall intentionally damage, cut, carve, top, transplant, place soil or mulch against the trunk/root collar, or remove any tree on public lands or remove bark, limbs or leaves; 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.
- (2) 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 from any public tree or shrub without obtaining written consent from the City Administrator.
- (3) No person shall deposit, place, store, or maintain upon any public place of the City, 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 City Administrator.
- (4) Whoever violates this section is guilty of a misdemeanor of the 4th degree as described in 541.06.

### (c) TREE PROTECTION FROM CONSTRUCTION ACTIVITY

- (1) Person in charge of or responsible for the erection, alteration or removal of any building or structure in the City shall provide approved guard or protection to prevent injury, damage, or defacement to such tree arising out of, in connection with, or by reason of such operation. The quality of the guard or protection shall be determined by the City Administrator per City of Defiance Engineering Handbook.

(2) Failure to comply with the tree preservation measures outlined above will result in remediation or replacement of equivalent inches (DBH) to the satisfaction of the City Administrator.

(d) TREE SPECIES TO BE PLANTED

All planting of public trees shall conform to the City of Defiance Tree Planting Specifications and with the Shade Tree Commission List of Street Trees.

(e) TREES IN NEW DEVELOPMENT

In any new development, the City Administrator shall review landscaping plans and will require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided in accordance with the Master Tree Planting Design. See Landscaping and Buffer Standards (Ch. 1177) and Street Trees for new development. (Ch. 1167.12)

(f) MASTER TREE PLANTING DESIGN

The Shade Tree Commission shall have the authority to formulate a Master Tree Planting Design after receiving the advice of the City Administrator. The Master Tree Planting Design shall specify the species of trees to be planted on the street tree lawns and public places within the City. From and after the adoption and approval of such Design by the City Administrator, or any amendment thereof, all planting shall conform thereto. Such Design shall take into consideration all existing and future utility, site quality, and environmental factors in determining the species of trees for the various locations, and such Design may be amended by the City Administrator, with the advice of the Shade Tree Commission as circumstances require.

(g) TREE SPACING

The spacing of public trees will be in accordance with the three (3) species size classes referred to in the Shade Tree Commission List of Street Trees and no trees may be planted closer together than the following:

<u>Size of Tree</u>	<u>Average Mature Height</u>	<u>Spacing btw. Plantings</u>
Small	<25'	15'
Medium	25' - 40'	30'
Large	> 40'	35'

\*\*\* Except in Special Plantings Designed or Approved by the City Administrator

(h) DISTANCE FROM CURB AND SIDEWALK

The distance public trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes in the Shade Tree Commission List of Street Trees and no trees may be planted closer to the curb or sidewalk that the following:

<u>Minimum Size of Tree lawn</u>	<u>Size of Tree</u>	<u>Minimum Distance From Sidewalk ***</u>
< 4' **	n/a	n/a
4-6'	Small	2'
6-8'	Medium	3'
8' +	Large	4'

\*\* Tree Lawns < 4' will require planting elsewhere in City to the approval of the City Administrator.

\*\*\* Except in Special Plantings Designed or Approved by the City Administrator.

(i) DISTANCE FROM FIRE HYDRANTS, STREET CORNERS, STREETS AND SIDEWALKS

No public tree shall be planted closer than thirty-five (35) feet from any street corner, measured from the outermost point of the curb radius. No public tree shall be planted closer than ten (10) feet to any fire hydrant. There shall be an overhead clearance of fourteen feet (14') above the surface of any street, alley, or driveway and eight feet (8') above the surface of any sidewalk. All truck routes shall have overhead clearance of eighteen feet (18').

(j) DISTANCE FROM ALLEYS, DRIVEWAYS AND BUILDINGS

No public tree shall be planted closer than twenty (20) feet from any building. No public tree shall be planted closer than ten (10) feet from any alley or driveway.

(k) UTILITIES

No public trees other than those species referred to as Small Trees in the Shade Tree Commission List of Street Trees may be planted under any overhead primary electric line. Medium Trees may be planted within forty (40) lateral feet and Small Trees may be planted within twenty-five (25) lateral feet of any overhead primary electric line. No public trees may be planted over or within five (5) lateral feet of any underground water line, sewer line, distribution line, or other public utility.

(l) ADOPTION OF RULES

The City Administrator, with the approval of City Council, may adopt rules consistent with this Ordinance which shall provide detailed guidelines for the administration of this Ordinance.

**Section 3:** All provisions of the Codified Ordinances of Defiance, Ohio not expressly amended by Sections 1 or 2 of this Ordinance are ratified, confirmed, and shall remain in full force and effect.

**Section 4:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 5:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: \_\_\_\_\_, 2019 \_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2019 \_\_\_\_\_  
Mayor

Abstract of Ordinance  
City of Defiance, Ohio  
Ordinance No. 8178

Pursuant to Section 2.11(2) of the Charter of the City of Defiance permitting publication of an Abstract of any Ordinance exceeding 1,000 words in length, notice is hereby given of the adoption of Ordinance 8178 passed, November 26, 2019, approved by the Mayor, November 26, 2019 captioned: An Ordinance Amending Section 161.01 and Adding Chapter 907 “Tree Care & Maintenance” to the Codified Ordinances of Defiance, Ohio. The Ordinance amends the composition of the Shade Tree Commission in Section 161.05 from “five resident electors” to “at least five resident electors” appointed by the Mayor with the advice and consent of City Council.

The Ordinance adds Chapter 907 to Part IX of the Codified Ordinances of Defiance, Ohio. The purpose of this Chapter is to protect and preserve trees in the City-owned rights-of-way.

The Ordinance will be effective 30 days following publication of this notice. The full text of the Ordinance is available for inspection in the office of the Law Director.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RATIFYING A CONTRACT FOR SLUDGE HAULING FROM THE WATER POLLUTION CONTROL PLANT AND DECLARING AN EMERGENCY**

**WHEREAS**, the City had to remove sludge from three lagoons at the Water Pollution Control Plant or risk overflow; and,

**WHEREAS**, ZTH, LLC agreed to remove the sludge from the lagoons and apply the sludge to local farm fields during the short window between the fall harvest and winter wheat planting; and,

**WHEREAS**, ZTH, LLC has yet to receive the invoiced payment for this service of \$62,786.78, as Council has not yet authorized the contract;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** Council hereby ratifies a contract between the City of Defiance, Ohio and ZTH, LLC for hauling sludge from the Water Pollution Control Plant at the quoted price of \$62,786.78 and the City Administrator shall enter into this agreement.

**Section 2:** The Finance Director shall pay the contract price from Section 1 from appropriated funds allocated by expenditure from Line 590-540-5-2-835.117 of the 2019 annual budget.

**Section 3:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 4:** This Ordinance is declared to be an emergency measure necessary to preserve the health, safety or welfare of the community for the reason that the City had to remove sludge from its lagoons in a short timeframe to avoid an overflow and environmental liability. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than five (5) Members of Council and approval of the Mayor.

Passed: \_\_\_\_\_, 2019

\_\_\_\_\_  
President of Council

Votes in Favor of Adoption: \_\_\_\_\_

Votes Opposed to Adoption: \_\_\_\_\_

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2019

\_\_\_\_\_  
Mayor



RESOLUTION No. \_\_\_\_\_

**A RESOLUTION DECLARING THE SERVICES TO BE PROVIDED  
TERRITORY PROPOSED FOR ANNEXATION UPON ANNEXATION AND  
ESTABLISHING ZONING RESTRICTIONS**

**WHEREAS**, Carolyn Fortman, being the owner of 104.335 acres of property located in Section 7, Richland Township, Defiance County, Ohio, has filed a petition for annexation into the City of Defiance, Ohio; and

**WHEREAS**, the petitioner is seeking annexation where no land is excluded from the township; and

**WHEREAS**, Section 709.023(C), Ohio Revised Code requires Council to adopt a resolution stating what services the municipal corporation will provide, and an approximate date by which it will provide them;

**Now therefore**, be it Resolved by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The City of Defiance consents to the approval of the aforesaid petition by the Board of Commissioners of Defiance County, Ohio, and will maintain any street or road divided or segmented by annexation.

**Section 2:** The City shall provide all customary governmental and utility services, including water, sewer, and trash service, to the property described by the petition in the same manner and on the same terms and conditions as are applicable to the provision of like-kind services to other property within the territorial boundaries of the municipality immediately upon annexation.

**Section 3:** In the event that property within the annexation territory is accorded a municipal zoning designation that permits the property to be used in a manner that Council determines is clearly incompatible with the uses permitted under the current township zoning regulations of adjacent territory, Council will require the establishment of a buffer conforming to the requirements of Section 709.023(C), Ohio Revised Code by Ordinance.

**Section 4:** It is found and determined that all legislative actions pertaining to the adoption of this Resolution were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 5:** This Resolution shall be effective on the earliest date permitted by law.

Passed: \_\_\_\_\_, 2019

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2019

\_\_\_\_\_  
Mayor