

AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 668 VEGETATION AND LITTER, CHAPTER 1010 STREETS, CURBS, AND SIDEWALKS GENERALLY, CHAPTER 1018 MUNICIPAL TREE ORDINANCE, CHAPTER 1065 LICENSING OF LANDSCAPE CONTRACTORS, CHAPTER 1070 AVON LAKE PARK AND ASSEMBLY HALL, AND CHAPTER 1490 EXTERIOR MAINTENANCE CODE AND DECLARING AN EMERGENCY.

WHEREAS, the Tree Commission and Public Service Committee recommended amending Codified Ordinance Chapters 668, 1010, 1018, 1065, 1070, and 1490; and

WHEREAS, Council coming now to consider said recommendation approves it in full.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF  
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Codified Ordinance Chapter 668 is amended as follows:

668.01 TRIMMING OF TREES, PLANTS AND SHRUBBERY ALONG PUBLIC STREETS AND SIDEWALKS.

(a) The owner of every lot or parcel of land within the City upon which a tree, plant or shrubbery stands, with any part thereof upon or overhanging a public street or sidewalk, shall be subject to the regulations provided in this chapter. Upon such owner's failure to comply, after written notice, with this chapter, the City shall cause any such trees, plants, or shrubbery to be trimmed or cut down and removed in accordance with these regulations and assess the cost thereof against the owner of such lot or parcel of land, as provided for in this chapter.

(b) The owner shall trim or cause to be trimmed any such tree, plant, or shrubbery so that a clear height of eight feet between the lowest branches and the sidewalk is maintained and such height over the street as may be designated by the Public Works Director or the Urban Forester.

(c) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so that the same does not fall into the street or sidewalk.

(d) The owner shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street, private driveway, or other intersection, or to abate a nuisance, where such abatement is necessary to protect life, limb or property of persons, drivers of vehicles or pedestrians using the street or sidewalk.

(e) Whoever violates this section is guilty of a minor misdemeanor and shall be subject to the penalty provided in Section 698.02.

668.02 NOXIOUS WEEDS AND UNDESIRABLE VEGETATION DEFINED; DECLARATION OF NUISANCE.

(a) Noxious weeds and undesirable vegetation shall include:

(1) Any weed declared to be a noxious weed in the Ohio Administrative Code Section 901:5-37-01, **as amended**.

(2) Poison ivy, ragweed, poison oak and poison sumac.

(3) Any vegetation, other than trees, bushes, flowers, or other ornamental plants, which exceeds eight inches in height. In environmentally sensitive areas, ~~natural~~ **native** vegetation is hereby excluded from this classification.

(4) Any vegetation which, by reason of the pollen or the seeds which it spreads or produces, or due to the density of its growth or its unsightliness, injuriously affects the public health or welfare.

(b) All noxious weeds and undesirable vegetation, as defined in division (a) of this section, are hereby declared to be a nuisance.

668.07 ASSESSMENT OF COSTS BY ~~MUNICIPALITY~~ **CITY**.

Whenever any tree, plant, shrubbery, noxious weeds or undesirable vegetation, or parts thereof, are trimmed or removed or such litter removed in accordance with the provisions of this chapter by the City, then after such work is performed, the Zoning Administrator shall determine the cost of cutting and removal and shall cause a statement thereof to be mailed to the property owner of record. If such work is done by contract, the entire cost shall be determined by adding 15% to the actual contract cost as a reasonable charge to pay for the cost of supervision by the Zoning Administrator, the service of notice, inspection and/or other factors incidental to the completion of the work. The owner shall pay such costs as are charged in accordance with this chapter within 30 days after the statement of charges has been mailed to the owner at the address of record in the office of the County Auditor. Such payments shall be credited to the appropriation from which such cost was paid by the City. If the charge is not paid within 30 days after mailing, the Zoning Administrator shall make a written return to the County Auditor of his actions under this chapter with a statement of the charges or services, the amount paid for labor, the fee of the officers serving the notices, the charges incurred for notification and a proper description of the premises. These amounts, when allowed, shall be entered into the tax duplicate and become a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the City with the General Fund.

Section No. 2: That Codified Ordinance Chapter 1010 is amended as follows:

1010.11 TREE LAWNS

(a) No walk shall be installed in the right-of-way from the curb to the City sidewalk. No walk shall be installed behind the curb unless it is authorized sidewalk, as approved by the Municipal Engineer. All areas in the right-of-way not covered by authorized sidewalk or drive apron shall be covered by grass, as approved by the Municipal Engineer. Exceptions and approvals to this section shall be limited to the following:

(1) Street trees shall be allowed to be planted and maintained in tree lawns only as they may be approved by the ~~Municipal Arborist~~ **Urban Forester** pursuant to Chapter 1018;

(2) Sprinkler heads within the City tree lawn shall only be permitted along the edge of the sidewalk as authorized by the Building Department and Public Works Department pursuant to Section 608.16.5 of the 2007 Ohio Plumbing Code and Section 1010.02 respectively. A right-of-way permit shall be required from the Public Works Department for all sprinklers installed within the right-of-way.

(3) Mailbox posts shall conform to the standards established by the Ohio Department of Transportation Manual of Uniform Traffic Control Devices (ODOT MUTCD) Section 803.11 Mailbox Supports, shall be limited to 4" x 4" wood posts or two-inch diameter steel pipes, and shall not require permit approval for installation.

(4) Certain items in the City tree lawns that are otherwise in violation of the foregoing provisions of this section may be permitted to remain in their current locations in accordance with and subject to the terms and conditions of Section 1010.111.

(b) Notwithstanding any other provision of this chapter or Chapter 1018 to the contrary, upon application of a property owner, the ~~Director of Public Works~~ **Urban Forester** may allow trees, shrubs, grasses, vegetation and other plants or landscape features not specifically permitted by division (a) of this section to be planted, installed and maintained in the tree lawn abutting such owner's property if the ~~Director of Public Works~~ **Urban Forester** determines that:

(1) Such trees, shrubs, grasses, vegetation or other plants will not violate Section 668.01 of the Code of Ordinances;

(2) The vegetation or plants are not considered noxious weeds or undesirable vegetation under Section 668.02(a)(1), (a)(2) or (a)(4) of the Code of Ordinances; and

(3) Such trees, shrubs, grasses, vegetation, other plants, or landscape features will not constitute an obstruction or a nuisance.

(4) Any utility appurtenance i.e. valve covers, manhole covers, water meters, and valve boxes cannot be covered.

(5) No person shall stand or park a vehicle upon any tree lawn for which the owner of the tree lawn has obtained a pollinator planting permit.

All trees, shrubs, grasses, vegetation or other plants or landscape features planted, installed or maintained pursuant to this division (b) shall be subject to the applicable provisions of Section 668.01 of the Code of Ordinances.

**Section No. 3:** That Codified Ordinance Chapter 1018 is amended as follows:

**1018.01 PURPOSE; TITLE.**

The purpose of this chapter is to establish a ~~Municipal Arborist, a Citizens Tree Commission and a Municipal Tree Ordinance~~ **framework** for the **development and sustainability of the City's urban forest to maximize the benefits for all residents through the** orderly planting, maintaining, care and preservation of trees, shrubs, and hedges in the public ways and on all City property.

This chapter shall be known as the Avon Lake Municipal Tree Ordinance.

## 1018.02 DEFINITIONS.

For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

- (a) "Administrative communication" means a written, typed, or printed document.
- (b) "Board controlled public places" means all current and future grounds placed under board control by the Charter, such as the Board of Utilities and the Board of Education in the ~~Municipality~~ **City**.
- (c) "Emergency" means the immediate necessity for the preservation of public peace, health and safety.
- (d) "Hedge" means a row of closely planted shrubs or low-growing trees forming a fence or boundary.
- (e) "Large trees" means those trees attaining a height of forty-five feet or more.
- (f) "Medium trees" means those trees attaining a height of thirty to forty-five feet.
- (g) "~~Municipal Arborist~~ **Urban Forester**" means the ~~Public Works Director~~ **Urban Forester** of the ~~Municipality~~ **City**, ~~who is assigned the duty of carrying out the enforcement~~ **manages and implements the goals** of this chapter.
- (h) "~~Municipality~~ **City**" means the ~~City, Town, Village, subdivision or otherwise designated area unit of Avon Lake, County of Lorain~~ **County**, ~~State of Ohio~~.
- (i) "Park" means all public parks having individual names.
- (j) "Park and Street Trees Department" means the Public Works Department, which is the designated department of the ~~Municipality~~ **City** under whose jurisdiction park and/or street trees fall.
- (k) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (l) "Principal thoroughfare" means any street upon which trucks are not prohibited.
- (m) "Private property" means all grounds not owned by the ~~Municipality~~ **City**.
- (n) "Property line" means the outer edge of a street or highway.
- (o) "Property owner" means the person owning such property as shown by the County Auditor's Plat of Lorain County, Ohio.
- (p) "Public places" means all non-board-controlled grounds owned by the ~~Municipality~~ **City**.
- (q) "Public trees" means all shade and ornamental trees now or hereafter growing on a tree lawn or any public place where otherwise indicated.
- (r) "Shrub" means a woody plant of relatively low height, distinguished from a tree by having several stems protruding from the ground.
- (s) "Small trees" means those attaining a height of twenty to thirty feet.
- (t) "Street" and "highway" mean 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.
- (u) "Tree lawn" means that part of a street or highway, not covered by a sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

(v) “Tree” means a tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, a single trunk with multiple branches rather than several stems protruding from the ground.

**1018.03 ~~MUNICIPAL ARBORIST~~ URBAN FORESTER.**

There is hereby established the position of ~~Municipal Arborist~~ Urban Forester in and for the City, and the City hereby adopts the Avon Lake Arboricultural Specifications and Standards of Practice.

(a) Duties. The ~~Municipal Arborist~~ Urban Forester shall abide by and have the authority to promulgate rules and regulations under authority of the Avon Lake Arboricultural Specifications and Standards of Practice, which rules and regulations shall govern the planting, maintenance, removal, mulching, fertilization, pruning and bracing of trees on the tree lawns and public places in the ~~Municipality~~ City, and the ~~Municipal Arborist~~ Urban Forester shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any tree lawn or public place in the Municipality. He or she shall cause the provisions of this chapter to be enforced. In his or her absence, these duties shall be the responsibility of a qualified person designated by the ~~Municipality~~ City.

(b) Authority.

(1) In General. The ~~Municipal Arborist~~ Urban Forester shall have the authority and jurisdiction to regulate the planting, maintenance, and removal of trees in tree lawns and public places to ensure safety and preserve the aesthetics of such public sites.

(2) Supervision. The ~~Municipal Arborist~~ Urban Forester shall have the authority and it shall be his or her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.

(3) Condition of Permit. The ~~Municipal Arborist~~ Urban Forester shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.

(4) Master Street Tree Plan. The ~~Municipal Arborist~~ Urban Forester shall have the authority to formulate or modify the Master Street Tree Plan with the advice, a hearing, and the approval of the ~~Citizens~~ Tree Commission. The Master Street Tree Plan shall specify the species of tree to be planted on each of the streets in the ~~Municipality~~ City. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto. Appendix C of the Avon Lake Arboricultural Specifications and Standards of Practice contains the Avon Lake Master Street Tree Plan.

A. The ~~Municipal Arborist~~ Urban Forester shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the ~~Municipality~~ City.

B. The ~~Municipal Arborist~~ Urban Forester, with the approval of the ~~Citizens~~ Tree Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable. The Master Street Tree Plan is to be reviewed and updated every five years. New streets and improved cultivars in trees are to be considered.

C. The ~~Municipal Arborist~~ Urban Forester shall maintain tree related records and reference material, including a street and park tree inventory.

(5) Arboricultural Specifications and Standards of Practice. The ~~Municipal Arborist~~ **Urban Forester** or the ~~Citizens~~ Tree Commission shall have the authority to modify, amend or extend the Avon Lake Arboricultural Specifications and Standards of Practice, with the approval of the City department heads and the ~~Citizens~~ Tree Commission, at any time that experience or technology indicates improved methods or whenever circumstances make it advisable. Council must approve any changes to policy or procedure. Other changes require only notification of Council.

~~1018.04 CITIZENS TREE COMMISSION.~~ **MOVED TO CHAPTER 294**

1018.05 PLANTING AND/OR REMOVAL OF TREES; PERMIT REQUIRED.

(a) Board-controlled places do not require a permit for planting, pruning, maintenance or removal of trees, shrubs, or hedges, but said board must administratively communicate all activity to the ~~Municipal Arborist~~ **Urban Forester** to preserve current records.

(b) Except as provided in subsection (a) hereof, no other person shall plant any tree, shrub or hedge upon any tree lawn or public place unless he or she shall have first obtained a permit in writing from the ~~Municipal Arborist~~ **Urban Forester** specifying the size, type, species and location on the tree lawn or public place so to be planted. Approval to plant requires adherence to the specifications set forth in the Avon Lake Arboricultural Specifications and Standards of Practice.

(c) The ~~Municipal Arborist~~ **Urban Forester** shall have the authority to deny a permit to any person who proposes to plant any tree or shrub upon a tree lawn or public place of a size, type or species found to be undesirable by the ~~Municipal Arborist~~ **Urban Forester** or found to be undesirable for the location proposed, or he or she may deny a permit to any person who proposes to plant any tree, shrub or hedge upon a tree lawn or public place at a location found by the ~~Municipal Arborist~~ **Urban Forester** to be of a size or type unsuitable for planting of trees, shrubs or hedges.

(d) Hereafter, when any tree is planted in a tree lawn or public place and is in conflict with specifications of the Master Street Tree Plan, as found in the Avon Lake Arboricultural Specifications and Standards of Practice, it shall be lawful for the City to request tree, shrub, hedge, or stump removal by the property owner within thirty days.

(e) The ~~Citizens~~ Tree Commission shall develop and maintain a list, found in the Avon Lake Arboricultural Specifications and Standards of Practice, of desirable and undesirable large, medium, and small trees for planting in tree lawns and public places.

(f) Trees planted upon a tree lawn or public place may be removed by the City as necessary to protect the public health, safety, welfare, and aesthetics. The ~~Municipal Arborist~~ **Urban Forester** may cause the removal of any such tree by using City employees or private contractors under contract with the City. Stump grinding and restoration of tree lawn grass shall take place when trees are replaced or removed.

1018.06 REPLACEMENT OF TREES.

Any person or property owner granted permission to remove a tree from tree lawns or public places for the purpose of construction shall replace the removed tree or trees with a species designated on the Master Street Tree Plan as part of the City's Street Tree Program. The person

or property owner shall bear the cost of replacing all trees removed. Projects initiated by the ~~Municipality~~ **City** shall have the replacement costs included in the project costs. Trees removed by the City or in board-controlled places are to be replaced. Replacing trees in the same location is not necessary and sometimes not practical. The City shall only pay for tree replacement when the original tree was part of the City's Street Tree Program funded by the original developer.

#### 1018.07 PRUNING OF ~~PUBLIC TREES;~~ OBSTRUCTIONS.

(a) ~~It shall be the duty of~~ **Every owner of any tree overhanging any public street, sidewalk, or right-of-way within the Municipality City to shall** ~~prune public trees in such manner that they will~~ **the branches of such trees so that the branches will** not obstruct or shade **any** street lights, ~~obstruct the passage of pedestrians on sidewalks, obstruct the vision~~ **view** of traffic signs or ~~obstruct the view of any street intersection,~~ **or obstruct the passage of pedestrians on public sidewalks so that there shall be a clear space of at least fourteen feet above the surface of the street or seven feet above the surface of the public sidewalk.** ~~The Municipality shall remove all public trees which are dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. Minimum clearances shall be maintained, as set forth in the Avon Lake Arboricultural Specifications and Standards of Practice, of any overhanging portion over sidewalks, streets and truck thoroughfares.~~

~~—(b) It shall be the duty of the property owner to prune trees on private property in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the vision of traffic signs or obstruct the view of any street intersection.~~

**(b) The City shall have the right to prune any tree or shrub on private property when it interferes with the light from a street light, the visibility of any traffic control device, sign, or intersection, obstructs the passage of pedestrians on public sidewalks, or generally obstructs vehicular, bicycle, or pedestrian traffic.**

(c) Pruning of public trees by persons other than the ~~Municipality~~ **City**, persons contracted for by the ~~Municipality~~ **City**, or persons approved by the ~~Municipal Arborist~~ **Urban Forester**, requires a permit which identifies each tree being pruned and the type of pruning.

(d) ~~As a normal practice, no~~ **No** person, firm or City department shall top any public tree. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter **within the tree's crown to such a degree** so as to remove the normal canopy and disfigure the tree. Public trees **that have been** 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 ~~Municipal Arborist~~ **Urban Forester**.

#### 1018.08 PRUNING OR REMOVAL OF TREES ON PRIVATE PROPERTY.

~~The City shall have the right to advise the need for pruning or removal of any trees on private property within the City, when such trees constitute a hazard to any person or public property.~~

**(a) The City shall remove all public trees or portions of such trees which are dead, diseased or dangerous to the life, health, or safety of pedestrians, vehicular or bicycle traffic, or public property.**

**(b) The City shall have the right to cause the removal of any dead or diseased tree or portions of such trees on private property within the City, when such trees constitute a serious hazard to the safety of the public.**

**c) The City shall have the right to cause the removal of any tree or shrub that harbors insects or disease which constitute a potential threat to other trees or shrubs within the City. The Urban Forester or Tree Commission shall notify the owner of any such tree or shrub on private property of the nature of such threat.**

**(1) Within thirty days after the date of service of the notice to remove tree diseased or infested tree or shrub, the owner shall cause the removal of such tree or shrub at the owner's sole expense.**

**(2) Upon the failure of the owner to comply with the notice to remove diseased or infested tree or shrub, the City, its employees, or agents may enter upon the property to remove the diseased or infested tree or shrub and bill the property owner for the actual cost of the work, which shall become an assessment against the property until paid.**

#### 1018.09 ABUSE AND/OR MUTILATION OF PUBLIC TREES.

Unless specifically authorized by the ~~Municipal Arborist~~ **Urban Forester**, no person shall intentionally damage, cut, carve, transplant, whether above or below ground, or remove any public tree, attach any rope, wire, nail, advertising, poster or other contrivance to any public tree, allow any gaseous liquor or solid substance which is harmful to such trees to come in contact with them, or set fire to any public tree or permit any fire to burn when such fire or the 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.

#### 1018.10 PROTECTION OF TREES NEAR CONSTRUCTION WORK.

(a) All trees **measuring twelve (12) inches DBH (Diameter at Breast Height) or less** on tree lawns or public places near any excavation, construction of any building or structure, or street work, **soil excavation work or root cutting shall not occur closer than three (3) feet from the outer bark of the tree. For trees measuring greater than twelve (12) inches DBH, soil excavation work or root cutting shall not occur closer than a distance equal to the circumference of the tree measured at a height four feet above ground level or six (6) feet, whichever is less.**

**(b) Trees** shall be guarded with a protective device such as a substantial fence, frame, or box not less than four feet high and eight feet square or placed at a distance in feet from the tree equal to the diameter of the trunk in inches, measured at a trunk height of approximately four and one-half inches from the ground, (DBH), whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier. The protective device must be structurally sound and capable of protecting the trees from all expected encroachment by debris and machinery associated with said excavation and/or construction.

**(c) Soil excavation work is permitted closer than the distance parameters established in (a) and (b) above provided all excavation of soil is accomplished by hand shovel, air spade or auger, and no roots greater than two (2) inches in diameter are severed.**

**(d) If lateral roots greater than two (2) inches in diameter are encountered, they shall be exposed beyond the excavation limits and an attempt shall be made to bend and relocate the roots without breaking them. If such lateral roots are encountered immediately adjacent to the location of new construction and relocation does not appear practical, the Public Works Director or his or her designee shall be contacted.**

**(e) If, after inspection by the Urban Forester or his or her designee, it is determined that the cutting of roots cannot be avoided, the following standards shall be observed. Roots must be cut sharply and cleanly. The wound shall not be painted or treated. All excavated roots shall be backfilled by hand as soon as possible to prevent drying. If immediate backfilling is not possible, roots shall be covered with peat moss or wet burlap and watered. The tree shall be thoroughly watered by providing the equivalent of one (1) inch of water per week for up to one year at the direction of the Urban Forester or his or her designee.**

**(f) No construction equipment shall be parked and no particulate construction material such as sand, soil or gravel shall be stored on the surface of any unpaved areas within the drip line of any public tree without the express permission of the Urban Forester of his or her designee.**

**(g) If the removal of a public tree cannot be avoided, or if a public tree does not survive due to construction activities, the owner of the facility to be constructed shall obtain a permit as specified in Section 907.06 and shall remove the tree at its expense. Said owner shall also plant, at the owner's sole expense, a replacement tree of a size, type and at a location approved by the Tree Commission.**

~~(b)~~ **(h) No person shall excavate any ditches, tunnels or trenches or lay any drive within a radius of ten feet from any public tree without first obtaining a written permit therefore from the Municipal Arborist Urban Forester.**

#### 1018.11 PLACING OF MATERIAL INJURIOUS TO TREES ON PUBLIC PROPERTY.

No person shall deposit, place, store or maintain upon any public place of the City, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written permit of the ~~Municipal Arborist~~ **Urban Forester**.

#### 1018.12 NOTICE TO CORRECT; SERVICE; NONCOMPLIANCE; REMEDY OF CITY.

The person or property owner shall be provided with written notice of desired action.

(a) Should any person or persons owning real property bordering on a tree lawn or public place fail to maintain trees as provided in this chapter, the ~~Municipal Arborist~~ **Urban Forester** shall order such person or persons, within thirty days after receipt of written notice, to comply with the requested maintenance.

(b) The order provided herein shall be served by certified mail at the last known address of the property owner.

(c) When a person to whom an order is directed shall fail to respond or comply within the specified time, it shall be lawful for the City to perform requested maintenance and assess the property owner for the cost of services rendered.

#### 1018.13 EMERGENCIES.

In the case of officially declared emergencies, such as windstorms, ice storms or other disasters, the provisions of this chapter shall be waived so that said provisions will in no way hinder public and/or private work to restore order in the City. Such work shall follow maintenance standards as outlined by the ~~Municipal Arborist~~ **Urban Forester**.

Necessary emergency activity for repair of underground utilities to assure landowner services does not require a permit. Any emergency activity which results in damaging, pruning or removal of trees, shrubs, hedges, or other vegetation in a tree lawn or public place must be administratively communicated to the ~~Municipal Arborist~~ **Urban Forester**.

#### 1018.14 INTERFERENCE WITH ~~MUNICIPAL ARBORIST~~ **URBAN FORESTER** OR AGENT.

No person shall hinder, prevent, delay, or interfere with the ~~Municipal Arborist~~ **Urban Forester** or ~~his or her~~ **their** designated representative ~~or agent~~ while ~~either of~~ such persons is engaged in carrying out the ~~execution or enforcement~~ **provisions** of this chapter, 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~~ **City**.

#### 1018.99 **ENFORCEMENT AND** PENALTY.

**(a) The Urban Forester or designee may issue citation to any person who fails to comply with the provisions of this Chapter or who otherwise fails to comply with any legal directive issued by the Urban Forester or designee in furtherance of the requirements of this Chapter.**

**(b)** Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed for each seven days of continued violation or noncompliance.

**Section No. 4:** That Codified Ordinance Chapter 1065 is amended as follows:

#### 1065.01 CONTRACTOR DEFINED.

**(a)** As used in this chapter, "contractor" or "landscape contractor" means any individual, firm, partnership, corporation, association or other organization, or any combination thereof, ~~who or which, by himself, herself or itself, or by or through others,~~ constructs, alters, repairs, adds to, or subtracts from landscaping, including but not limited to the planting of trees, shrubs, flowers and plants, sprinkler fitters, sod applicators, ~~and including~~ tree removal and trimming ~~on private lands,~~ and the application of chemical pesticides and fertilizers. Any person who or which undertakes, offers to undertake, purports to have the capacity to undertake or submits a bid to undertake in any of the foregoing activities is included in the meaning of "contractor" or "landscape contractor".

**(b)** As used in this chapter, "arborist" shall mean any individual, firm, partnership,

**corporation, association, or other organization, or any combination thereof, engages in the business or occupation of pruning, treating, or removing trees upon public land within the Municipality.**

1065.05 PERMITS.

(a) No individual permits are required for contractors doing work as listed in Section 1065.01(a) that involves either landscaping, trees or earth disturbing activities on ~~individual~~ **private** properties as long as the work does not alter the drainage pattern or contours of the property as related to grading **or affect the landscaping, trees, or earth on public lands.** Contractors doing such work are required to be registered within the ~~Municipality~~ **City** annually as outlined in Section 1065.02.

(b) Landscape contractors who do work which ~~either~~ alters the drainage pattern/contour of the property ~~or to install~~ **involves the installation of** sprinkler systems **or affect the landscaping, trees, or earth on public lands** shall be required to submit plans to the Public Works Department for approval of a ~~grading/re-grading~~ permit. Policies of the Public Works Department shall apply as to the submission requirements.

1065.99 **ENFORCEMENT AND PENALTY.**

~~—Whoever violates any provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.~~

**(a) The Urban Forester, as defined in 1018.03, or Urban Forester’s designee may issue citations to any person who fails to comply with the provisions of this Chapter.**

**(b) Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed for each seven days of continued violation or noncompliance.**

Section No. 5: That Codified Ordinance Chapter 1070 is amended as follows:

1070.02 ~~MUNICIPAL~~ **CITY** PARK RULES.

(a) Purpose and Definitions.

(1) Avon Lake parks are primarily intended for the use and enjoyment of the residents of the City and their friends. Persons not residing in the ~~Municipality~~ **City** are guests and are extended the privileges of the parks, provided they do not abuse the hospitality or rules of the City.

1070.02 ~~MUNICIPAL~~ **CITY** PARK RULES.

(f) Natural Resources and Other Park Objects.

(1) Trees, shrubbery, lawns and other plant life. Except in accordance with the direction of the Director **or Urban Forester**, no person shall cut, carve, or injure the bark or break off the limbs or branches, or mutilate in any way or pick the flowers or seeds of any tree or plant existing in a park, nor dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area, nor remove any plant material from a park.

Section No. 6: That Codified Ordinance Chapter 1490 is amended as follows:

1490.06 EXTERIOR PROPERTY MAINTENANCE.

The premises and the exterior of all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of unsanitary conditions. All such nuisances and hazards and unsanitary conditions shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of all nuisances, unsanitary conditions and hazards which include, but are not limited to, the following:

(a) Refuse. Including, but not limited to, an accumulation of brush, rubbish, garbage, trash, refuse, broken glass, automobile parts, stumps and roots which may create a health, accident, or fire hazard, or which is a public nuisance, or which constitutes a blighting or deteriorating influence on the neighborhood.

(b) Natural Growth. Dead trees and limbs or other natural growth which, by reason of rotting, **diseased**, or deteriorating conditions or ~~storm~~ damage, constitutes a hazard to persons in the vicinity thereof **as set forth in Section 1018 of the Codified Ordinances**.

(c) Overhangings. Loose and overhanging objects, both man-made and natural, which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.

(d) Sources of Infestations. Any premises that are permitted to become infested with vermin or rodents are hereby declared to be a nuisance and unlawful. No owner, occupant or person in charge or control of any premises shall cause or knowingly permit such premises to become or to remain infested with vermin or rodents.

(e) Foundation Walls. Foundation walls shall be kept structurally sound, free from defects and damage, and capable of bearing imposed loads safely.

(f) Chimneys and All Flue and Vent Attachments Thereto. Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects and so maintained as to capably perform at all times the functions for which they were designed, and the same shall be capable of withstanding, if necessary, the action of flue gases.

(g) Firewood. Front yards shall be kept free, and storage shall be prohibited, of all firewood, brush, logs or any other material intended to be used in fireplaces or other permitted burning facilities. Storage of such materials shall be permitted only in side or rear yards and under the following conditions:

(1) The firewood shall be neatly stacked in an orderly manner a minimum of four inches above the surrounding grade and no higher than six feet;

(2) It shall be cut firewood not to exceed 30 inches (length) per piece;

(3) It shall be stored at least five feet from the property line; and

(4) It shall be stored in such a manner as not to constitute a fire hazard.

**(5) It shall comply with the requirements of Chapter 901:5-56 of the Ohio Administrative Code.**

(h) Compost Piles. Nothing in this chapter shall be construed or interpreted so as to prevent persons from creating or maintaining a compost pile or piles for yard waste, provided that such pile or piles are not stored in quantities or locations prohibited by any provision of this chapter or by any ordinance of the City or law of the State. All compost piles:

- (1) Shall not be visible from the public right of way;
- (2) Shall not constitute a public nuisance or a nuisance to abutting and adjoining properties by providing a breeding place or attraction for, or by becoming infested with, vermin, rodents, or insects, or emit a smell or odor which annoys or disturbs a reasonable person of normal sensitivities, or which endangers or injures real or personal property;
- (3) Shall not create any health or fire hazard;
- (4) Shall not be created or maintained in any front or side yard or located closer than five feet from any side or rear lot line;
- (5) Shall be permitted if the compost pile or piles are enclosed by a barrier on all sides which shall not exceed four feet in height;
- (6) Shall not be in excess of one percent of the square footage of the lot or seventy-five square feet, whichever is less;
- (7) Shall not impede any natural watercourse or drainage from any property; and
- (8) May contain any organic yard waste or vegetable waste. Meat products, dairy products, food oils and animal waste are prohibited.

Section No. 7: 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 which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 8: That this Ordinance is hereby declared to be an emergency measure, the emergency being the immediate preservation of the public health, safety, morals, convenience, and the general welfare of the community. Therefore, this Ordinance shall be in full force and effect from and immediately after passage and approval by the Mayor.

PASSED: 5/09/2023

/s/ Martin E. O'Donnell

President of Council

POSTED: 5/12/2023

APPROVED: 5/10/2023

ATTEST: /s/ Valerie E. Rosmarin

Clerk of Council

/s/ Gregory J. Zilka

Mayor