

AN ORDINANCE AMENDING CHAPTER 1018: MUNICIPAL TREE ORDINANCE,
AND CODIFIED ORDINANCE SECTION 1065.99, ENFORCEMENT AND PENALTY.

WHEREAS, the Public Service Committee and the Tree Commission recommended amending Chapter 1018: Municipal Tree Ordinance, and Codified Ordinance Section 1065.99; and

WHEREAS, Council, coming now to consider said recommendations, approves them in full.

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

Section No. 1: That Chapter 1018 is hereby amended as follows:

~~MUNICIPAL~~ **CITY** TREE ORDINANCE

§ 1018.01 PURPOSE; TITLE.

(a) The purpose of this chapter is to establish a 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.

(b) This chapter shall be known as the Avon Lake ~~Municipal~~ **City** 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.

ADMINISTRATIVE COMMUNICATION. A written, typed or printed document.

ANSI A300. The Tree Care standards, as amended, that have been developed and promulgated by the American National Standards Institute.

ARBORIST. One who, by possession of a recognized degree, certificate, or professional standing, or by extensive knowledge, training, and experience, has demonstrated the ability to deal with the subject matter.

BOARD CONTROLLED PUBLIC PLACES. 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 city.

CALIPER. The diameter of a tree trunk six inches above the existing grade or proposed planted grade. This measurement is only used for replacement when using nursery stock trees in this chapter.

CITY. The City of Avon Lake, Lorain County, State of Ohio.

CRITICAL ROOT ZONE. The area inscribed by an imaginary line on the ground beneath a tree having its center point at the center of the trunk of the tree and having a radius equal to 1.5 feet for every one inch of diameter breast height.

DIAMETER BREAST HEIGHT (DBH). The diameter of a tree measured at four and one-half feet above the existing grade. This measurement is an industry standard measurement used for existing trees.

EMERGENCY. The immediate necessity for the preservation of public peace, health and safety.

HEDGE. A row of closely planted shrubs or low-growing trees forming a fence or boundary.

INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA). The professional organization who governs the accreditation of tree care professionals and adopts standards for arboriculture implementation.

LARGE TREES. Those trees attaining a height of 45 feet or more.

MASTER TREE PLAN. The plan shall specify the species of tree to be planted on each of the streets in the city.

MEDIUM TREES. Those trees attaining a height of 30 to 45 feet.

PARK. All public parks having individual names.

PARK AND STREET TREES DEPARTMENT. The Public Works Department, which is the designated department of the city under whose jurisdiction park and/or street trees fall.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PRINCIPAL THOROUGHFARE. Any street upon which trucks are not prohibited.

PRIVATE PROPERTY. All grounds not owned by the city.

PROPERTY LINE. The ~~outer edge of a street or highway~~ border where a property begins and ends.

PROPERTY OWNER. The person owning such property as shown by the County Auditor's Plat of Lorain County, Ohio.

PROTECTED TREE. Any tree in good health having a diameter of eight inches DBH or larger or having an aggregate diameter of twenty inches DBH for multi-stemmed trees. Trees less

than eight inches DBH may be given protected status, if determined to be of high value by the Urban Forester based on species, health, and history.

PUBLIC PLACES. All non-board-controlled grounds owned by the city.

PUBLIC TREES. All shade and ornamental trees now or hereafter growing on a tree lawn or any public place where otherwise indicated.

REMOVE OR REMOVAL. The causing or accomplishing of the actual physical removal of a tree, or the effective removal through damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a tree.

SHRUB. A woody plant of relatively low height, distinguished from a tree by having several stems protruding from the ground.

SMALL TREES. Those attaining a height of 20 to 30 feet.

STREET and HIGHWAY. 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.

STREET TREE PROGRAM. Per chapter 12 14, Developers deposit funds during the final plat phase of development into a program to pay for trees planted in tree lawns on public streets.

TOPPING. Topping is 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.

TREE. 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.

TREE LAWN. 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.

TREE MAINTENANCE. The planting, caring for and protection of trees adhering to ANSI A300 standards to reduce the prevalence of issues, including establishment failure and the possible spread of oak wilt, that stems from poor management practices.

TREE PRESERVATION PLAN. A proposal that includes a tree survey of a site, including a construction site or a site where trees may be impacted by temporary equipment, vehicles, or events, and a written plan with text and/or graphic illustrations indicating the methods used to preserve existing trees during construction and/or temporary events, and methods for ongoing maintenance, including replacement, fertilizing, and pruning following ANSI A300 standards. The Tree Preservation Plan shall contain specific penalties for damaging trees designated for protection including replacement definitions and monetary reimbursement.

TREE SELECTION. For residents, city, and contractors registered with the city, that they follow ANSI A300 standards and the Avon Lake Master Street Plan by not planting invasive species as published by the Ohio Department of Natural Resources.

TREE SURVEY. A graphic display drawn to scale by a landscape architect or certified arborist, not to exceed one inch (1") = fifty feet (50'), showing all existing protected trees on the site. The tree survey shall include species, DBH, and contain the outline of the critical root zone of each such tree.

URBAN FORESTER. The Urban Forester of the city, manages and implements the goals of this chapter.

§ 1018.03 URBAN FORESTER.

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

~~(a) Duties. The 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 city, and the 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 city. 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 city.~~

Duties. The Urban Forester shall abide by and have the authority to promulgate and enforce the rules and regulations of this chapter under authority of the Avon Lake Arboricultural Specifications and Standards of Practice, which shall be based on ANSI A300 standards and in collaboration with the Tree Commission. In the absence of the Urban Forester, these duties shall be the responsibility of a qualified person designated by the City.

(b) Authority.

(1) In general. The Urban Forester shall have the authority and jurisdiction to regulate the planting, maintenance, ~~and removal~~, **removal, mulching, fertilization, pruning and bracing** of trees in tree lawns and public places to ensure safety and preserve the aesthetics of such public sites.

(2) Supervision. The Urban Forester **or a person designated thereby**, 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 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 Urban Forester shall have the authority to formulate or modify the Master ~~street~~ Tree Plan. ~~The master street tree plan that~~ shall specify the species of tree to be planted on each of the streets in the city with the advice, a hearing, and the approval of the Tree Commission. From and after the effective date of the Master ~~street~~ Tree Plan, or any amendment thereof, all planting shall conform thereto ~~which shall be included as~~ Appendix C of the Avon Lake Arboricultural Specifications and Standards of Practice, ~~contains the Avon Lake master street plan and shall be maintained as tree-related records and reference material, including a street and park tree inventory.~~

A. The 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 city.

B. The Urban Forester, with the approval of the 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 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 Urban Forester or the 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 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.~~

§ 1018.031 MASTER TREE PLAN

(a) The Master Tree Plan shall specify the species of tree to be planted on each of the streets in the city. From and after the effective date of the Master Tree Plan, or any amendment thereof, all planting shall conform thereto.

(b) The Master Tree Plan shall take into consideration all existing and future utility and environmental factors when identifying specific species for each of the streets and other public sites of the city.

(c) The Master Tree Plan is to be reviewed and updated every five years. New streets and improved cultivars in trees are to be considered.

(d) No tree shall be planted under electric lines on any of the public streets of the city, which at the estimated full growth will exceed 25 feet in height, or as to interfere with the aforementioned utility lines.

(e) Trees planted on any of the public streets of the city shall be planted no closer than 20 feet apart; no closer than 35 feet from an intersection; no closer than ten feet from all

utility poles, aprons, hydrants, manholes or other utility infrastructure unless specifically approved by the Urban Forester.

(f) Arboricultural Specifications and Standards of Practice. The Urban Forester or the 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 Tree Commission, at any time that experience or technology indicates improved methods or whenever circumstances make it advisable. The Council must approve any changes to policy or procedure. Other changes require only notification of Council.

(g) The 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, which shall be used by the Urban Forester in developing the Master Tree Plan.

§ 1018.04 PLANTING OF TREES, SHRUBS, AND HEDGES; ~~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~~ on Board-**Controlled Property is not required, but said board** must administratively communicate **and receive approval for** all activity ~~to~~ **from** the Urban Forester to preserve current records **and maintain biodiversity**.

(b) Except as provided in ~~division~~ **subsection** (a) **hereof**, ~~of this section~~, no other person shall plant any tree, shrub or hedge upon any tree lawn or public place **without** ~~unless he or she shall have~~ first obtained **ing** a permit in writing from the 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 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 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 Urban Forester to be of a size or type unsuitable for planting of trees, shrubs or hedges.~~ **under the following conditions as determined by the Urban Forester or Tree Commission:**

(1) the tree, shrub, or hedge is an undesirable size, type or species.

(2) the tree, shrub, or hedge is undesirable for the location proposed; or

(3) the tree lawn or public place is 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 30 days.

~~(e) The 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 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.

§ 1018.05 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 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 **subject to considerations of the location from where the tree was removed**. 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 **and within one (1) year of planting**.

§ 1018.06 PRUNING OF TREES.

(a) Every owner of any tree overhanging any public street, sidewalk or right-of-way within the city shall prune the branches of such trees so that the branches will not obstruct or shade any street lights; obstruct the view of traffic signs or street intersection, or obstruct the passage of pedestrians on public sidewalks, **or constitute a menace to the safety of the public**. ~~so that~~ There shall be a clear space of at least 14 feet above the surface of the street or ~~seven~~ **nine** feet above the surface of the public sidewalk **to remove a safety threat**.

(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 **such that it constitutes a menace to the safety of the public**.

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

(d) **Topping.** 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 Urban Forester.

(e) No oak trees (*Quercus spp.*) or chestnut trees (*Castanea spp.*) shall be cut, trimmed or removed between April 1 through December 1 to prevent the further spread of oak wilt (*Bretziella fagacearum*) unless deemed necessary or hazardous after review by the Urban Forester or an emergency exists affecting public health or safety.

§ 1018.07 PRUNING OR REMOVAL OF TREES ON PRIVATE PROPERTY.

(a) The city shall remove all public trees or portions of such trees which are dead, **damaged**, 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, **damaged**, 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. **Prior to removal**, 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 30 days after the date of service of the notice to remove tree diseased or infested tree or shrub, the owner shall ~~cause~~ **provide the Urban Forester with a Letter of Intent from an Arborist who is registered with the city for** the removal of such tree or shrub at the owner's sole expense.

(2) Upon the ~~failure of~~ expiration of the time set forth in (1) above, the owner **has failed** 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 shall be billed to-** ~~which shall become an assessment against the property~~ **owner and become an assessment against the property** until paid.

(d) No oak trees (*Quercus spp.*) or chestnut trees (*Castanea spp.*) shall be trimmed or removed between April 1 through December 1 to prevent the further spread of oak wilt (*Bretziella fagacearum*) unless deemed necessary or hazardous after review by the Urban Forester or his/her designee or an emergency exists affecting public health or safety.

§ 1018.08 ABUSE AND/OR MUTILATION OF PUBLIC TREES.

(a) Unless specifically authorized by the Urban Forester, no person shall intentionally **cause damage to a public tree or to the Critical Root Zone. For purposes of this section, acts causing damage include, but are not limited to:** cut or carve; transplant or graft 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 **cause injury any portion of any public to the tree;** ~~No person shall pour salt water~~ **or upon any street or abutting land** ~~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.~~ **This provision shall not apply to the use of anti-icing materials necessary for the safety of persons upon the streets or sidewalks.**

(b) No person without the written permission of the Urban Forester shall damage, misuse or remove any device placed to protect or maintain such tree within the public rights-of-way or on public property, except in case of immediate necessity for the protection of life or property.

(c) No person shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree having all or any portion of its trunk in or upon any public property without obtaining a written approval from the Urban Forester and without strictly complying with the provisions of the issued approval and provisions of this chapter.

(d) No person shall attach any electric wire to any tree growing or planted upon public property, including low voltage holiday lighting without the written permission of the Urban Forester. Every person having any wire charged with electricity running through or across a public street shall securely fasten such wire or wires so that they shall not come in contact so as to injure any tree therein, and shall temporarily remove any such wire or the electricity therein when it shall be deemed necessary by the Urban Forester, in order to take down or prune any trees growing in a public street, within 24 hours after the owner of such wire, or his agent, has been served a written notice to remove the wire or the electricity therefrom.

1018.09 PROTECTION OF TREES NEAR CONSTRUCTION WORK.

~~—(a) All trees measuring 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 feet from the outer bark of the tree. For trees measuring greater than 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 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 divisions (a) and (b) of this section provided all excavation of soil is accomplished by hand shovel, air spade or auger, and no roots greater than two inches in diameter are severed.~~

~~—(d) If lateral roots greater than two 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 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 § 1018.04 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.~~

~~—(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 Urban Forester.~~

(a) Protected Trees near excavation, construction or demolition of any building or structure, or street work, shall be guarded with a highly visible protective barrier such as a substantial fence, frame, or box which shall not be removed unless or until the Urban Forester authorizes its removal.

(b) The Urban Forester shall review the Tree Protection Plan prior to the beginning of construction. The Urban Forester will perform periodic inspections of the construction site to ensure compliance with the Tree Protection Plan and identify tree damage or other violations not previously report to the Urban Forester by the contractor. Construction may be halted until violations are remedied.

(c) The protective device shall be not less than four feet high and no less than 4 feet from the tree or placed at the greater of the following distances:

(1) ten (10) feet;

(2) the drip line that is at the outermost extent of the branches; or

(3) a distance in feet from the tree equal to the circumference of the trunk in inches (e.g., 12-inch circumference equals a 12-foot distance), measured at DBH)

(d) All building material, dirt or other debris shall be kept outside the barrier to protect the critical root zone of the tree(s). The protective ~~device~~ barrier must be structurally sound and capable of protecting the trees from all expected encroachment of debris and machinery associated with said excavation, construction, demolition, or street work to prevent soil compaction or damage to the tree or the critical root zone.

(e) Tree Protection signs shall be visible and placed every twenty feet within the protection areas.

(f) Soil excavation work is permitted closer than the distance parameters established 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.

(g) 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 Urban Forester or designee shall be consulted.

(h) If, after inspection by the Urban Forester or designee, it is determined that the cutting of roots cannot be avoided, the following standards shall be observed:

(1) Roots must be cut sharply and cleanly.

(2) The wound shall not be painted or treated.

(3) 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.

(4) 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 designee.

(i) 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 or designee.

(j) No storage of chemicals, materials, supplies, construction debris or waste is allowed within the area of the protective barriers.

(k) No fuel storage or washing down concrete or cement handling equipment is permitted on the site. Machinery refueling and maintenance will occur off site.

(l) All grade changes must receive a Grading Permit from the Public Works Department with the approval of the Urban Forester prior to the start of the project to reduce construction activity damage to trees.

(m) If it becomes necessary to cut or prune roots outside the root protection zone during construction, all cuts will be clean cuts perpendicular to the natural growth direction. Roots must be backfilled within an hour of cutting followed by watering of the tree within 24 hours with the equivalent of one inch of rain distributed over the root protection zone.

(n) Any tree pruning needed prior to or during construction to prevent construction related tree damage or equipment clearance must be supervised by an ISA Certified Arborist following ANSI A300 standards.

(o) The Urban Forester shall review the Tree Preservation Plan and contractor performance during daily construction meetings. Enforcement, penalties and mitigation regarding breach of the Tree Preservation Plan should be discussed, understood and captured in construction documents. Any tree damage or injuries should be reported to the Urban Forester as soon as possible.

(p) 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 1018.08 and shall remove the tree at the owner's 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 Urban Forester.

(q) No person shall excavate any ditches, tunnels or trenches or lay any drive within a distance in feet from the tree trunk equal to 1.5 times the diameter of the trunk in inches, measured at DBH or the radius of ten feet whichever is greater from any public tree without first obtaining a written permit from the Urban Forester.

§ 1018.10 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 Urban Forester.

§ 1018.11 NOTICED 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 Urban Forester shall order such person or persons, within 30 days after receipt of written notice, to comply with the requested maintenance **within 30 days after receipt of written notice.**

(b) The order provided herein shall be served by certified mail at the last known address of the property owner. **If the delivery of the certified mail shall fail for any reason, service of the notice required herein shall be deemed effective upon posting said notice in a conspicuous location upon the property.**

(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.

§ 1018.12 EMERGENCIES.

In the case of officially declared emergencies, such as windstorms, ice storms or other disasters, the provisions of this chapter shall be waived **to the minimal extent possible** 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 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 Urban Forester **as soon as practicable.**

§ 1018.13 INTERFERENCE WITH URBAN FORESTER OR AGENT.

No person shall hinder, prevent, delay or interfere with the Urban Forester or their designated representative or agent while such person is engaged in carrying out the 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 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 \$100~~ **up to three times market rate value of the former tree and \$1,000** for each offense. A separate offense shall be deemed committed for each seven days of continued violation or noncompliance.

Section No. 2: That Codified Ordinance Section 1065.99 is hereby amended as follows:

1065.99 ENFORCEMENT AND PENALTY.

(a) The Urban Forester, as defined in § 1018.03, or **Public Works Director or other persons having jurisdiction hereof**, ~~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 \$100~~ **\$1,000** for each offense **and shall be liable for a mitigation fee equal to or up to three times the market value of the damaged or destroyed tree to be deposited into the Avon Lake Tree Fund.** A separate offense shall be deemed committed for ~~each~~ **every** seven days of continued violation or noncompliance.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken 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. 4: That this Ordinance shall be in full force and effect from and after the earliest period allowed by law.

1st reading: 7/14/2025

2nd reading: 8/25/2025

3rd reading:

PASSED: 9/08/2025

/s/Jennifer G. Fenderbosch
Council President

POSTED: 9/12/2025

APPROVED: 9/10/2025

ATTEST: /s/Valerie E. Rosmarin
Clerk of Council

/s/Mark A. Spaetzel
Mayor