

ORDINANCE NO.: 22-114
INTRODUCED BY: Mr. Winzig

First Reading October 17, 2022
Second Reading November 7, 2022

AN ORDINANCE
**REPEALING CHAPTER 547 TREES, OF THE CODIFIED ORDINANCES OF THE
CITY OF BAY VILLAGE, AND DECLARING AN EMERGENCY**

WHEREAS, the City is enacting a new Codified Ordinance numbered Chapter 1335 which will take the place of Codified Ordinance Chapter 547;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Codified Ordinance Chapter 547 which presently reads as follows:

“CHAPTER 547 - TREES

- 547.01 Trees on or overhanging public property and diseased trees and trees on private property.
- 547.02 Trees abutting or fronting public property.
- 547.03 Cutting, injuring or interfering with trees.
- 547.04 Approval to plant trees in public streets.
- 547.05 Interfering with tree roots.
- 547.06 Protecting trees during building construction.
- 547.07 Placing deleterious substances near trees.
- 547.08 Attaching electric wires to trees.
- 547.09 Fastening electric wires against contact with trees.
- 547.10 Compliance to remove electric wire required.
- 547.11 Planting of certain trees prohibited.
- 547.12 Removing, killing poplar trees.
- 547.13 Interfering with city planting, caring or removing of trees.
- 547.14 Authority of public service director.
- 547.15 Written order; noncompliance; assessment of costs.
- 547.99 Penalty.

Cross Reference — Park trees, shrubbery and lawns - see GEN. OFF. 539.03(b)
Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

Editor's note — For the Master Street Tree Plan, consult Ordinance 60-130, on file in the Clerk's office.

547.01 - Trees on or overhanging public property and diseased trees and trees on private property.

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 or being found to have an infectious disease shall conform to the regulations herein provided; otherwise, the Director of Public Services and Properties and/or the Director of Building or their designated

agents (hereinafter the "Director") shall cause such trees to be trimmed or cut down and removed in accordance with such regulations and assess the cost thereof against the owner of such lot or parcel of land:

- (a) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.
- (b) 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 shall not fall to the street or sidewalk.
- (c) 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 intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles, or pedestrians using such street or sidewalk.
- (d) The Director is authorized to inspect any tree or part thereof within the City which is suspected of being infected, diseased, or dead. If upon such inspection there is reason to believe a tree or part thereof is dead or a disease is present, the following action shall be taken by the Director:
 - (1) On City-owned property, the Director shall issue a written report to the Mayor who shall immediately order the removal of the tree and trimmings in such a manner as to prevent as fully as possible the spread of any disease and/or a hazardous condition.
 - (2) On private property, a written "notice of violation" shall be issued to the property owner. The notice may be served by delivering it personally to the owner, or by sending it first class mail to the owner's last known place of business or residence. If the notice is returned showing the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the real estate involved. Posting for 72 hours shall be considered legal notice. Such "Notice of Violation" shall contain an order to cut or destroy such tree or part thereof and abate the violation within the time limitations specified in said "Notice of Violation".

In the event such owner does not comply with the 'Notice of Violation, the Director shall cause such tree or part thereof to be cut and removed together with any clean-up work required. (Ord. 09-62. Passed 8-10-09.)

547.02 - Trees abutting or fronting public property.

The owner of any parcel of land or lot which abuts or fronts upon any street or public ground, in front of which trees are planted and growing shall trim and care for such trees in the manner provided in Section 547.01 and upon his failure to comply the Director may cause such work to be done and assess the cost thereof against the owner of such lot or parcel. In complying with this section, it shall be unnecessary to obtain the permit required in Section 547.03. (Ord. 09-62. Passed 8-10-09.)

547.03 - Cutting, injuring or interfering with trees.

No person shall, without the written permit of the Director, cut, prune, break, climb with spurs, injure or remove any living tree in a public highway; or cut, disturb, or interfere in any way

with the main roots of any tree on the public street; or place any rope, sign, poster or other fixture on a tree or guard in a public street; or injure, misuse or remove any device placed to protect such tree on a public street, except in case of immediate necessity for the protection of life or property. (Ord. 09-62. Passed 8-10-09.)

547.04 - Approval to plant trees in public streets.

- (a) No shade or ornamental tree or shrub shall be planted in any of the public streets of the City, except as is provided in the Master Street Tree Plan heretofore adopted by the City. Any such planting shall first require the written approval of the Director, and such written approval shall designate the species of trees to be planted, the required spacing, the required minimum planting size, all as specified in the Master Street Tree Plan for the City as such Plan now exists, or as it may be amended hereafter from time to time. The Director of the City shall prepare a street planting plan indicating the streets and tree locations for each year's scheduled planting program. The plan shall be presented to the City Council for approval each year prior to implementation.
- (b) The Director shall make a recommendation to City Council on the yearly tree plan relative to the impact of the tree planting on overhead utility wires and poles, and all underground utilities and services. If the Director has concerns on any portion of the tree planting plan, he shall modify the tree plan to eliminate the service concerns.
- (c) 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 twenty-five (25) feet in height.
- (d) Trees planted on any of the public streets of the City shall be planted no closer than thirty (30) feet apart unless specifically approved by the Director.
- (e) Trees planted in the public right of way shall be planted no closer than fifteen (15) feet from all utility poles unless specifically approved by the Director.

(Ord. 09-62. Passed 8-10-09.)

547.05 - Interfering with tree roots.

No person shall, without the written permission of the Director, place or hereafter maintain upon the ground in a public street any stone, cement, or other substance which shall impede the free passage of water and air to the roots of any tree in such street, without leaving an open space of ground outside of the trunk of such tree in area not less than four square feet. (Ord. 09-62. Passed 8-10-09.)

547.06 - Protecting trees during building construction.

In the construction of any building the owners thereof shall place protective fencing around all nearby trees on the public street as shall effectually prevent injury to them. There shall be one foot of protective fenced area for every eleven inches in diameter of affected trees. Nothing shall be permitted inside the perimeter fencing. (Ord. 09-62. Passed 8-10-09.)

547.07 - Placing deleterious substances near trees.

No person shall cause any natural or artificial gas, salt, brine, water, oil, liquid dye or any other substance deleterious to trees to come in contact with the soil surrounding the roots of any trees upon any public place in the City, in such a manner as to kill, injure, deface, destroy or affect the growth of such trees. (Ord. 09-62. Passed 8-10-09.)

547.08 - Attaching electric wires to trees.

No person shall, without the written permit of the Director, attach any electric wire to any tree growing or planted upon any public street of the City. (Ord. 09-62. Passed 8-10-09.)

547.09 - Fastening electric wires against contact with trees.

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. (Ord. 09-62. Passed 8-10-09.)

547.10 - Compliance to remove electric wire required.

Every person having any wire charged with electricity running through or across a public street, shall temporarily remove any such wire or the electricity therein when it shall be deemed necessary by the Director, in order to take down or prune any trees growing in a public street, within twenty-four hours after the service upon the owner of such wire, or his agent, of a written notice to remove the wire or the electricity therefrom. (Ord. 09-62. Passed 8-10-09.)

547.11 - Planting of certain trees prohibited.

No person shall plant any variety of trees which are commonly known as poplars (populus sp., aka aspens, cottonwood), box elder (acer negundo, aka ash leaf maple), siberian elm (almus pumila aka piss elm), alianthus (alanthus altissima aka tree of heaven, skunk tree, weed tree, stink tree), willows (salix sp) and thorne varieties of honey locust (gleditsia triacanthos) in the public right of way. (Ord. 09-62. Passed 8-10-09.)

547.12 - Removing, killing poplar trees.

Any person who is the owner of any poplar tree (populus species aka aspens) that stands within the lines of any street in the public right-of-way shall cause the same to be removed, killed or girdled. The stump must be totally removed and ground. (Ord. 09-62. Passed 8-10-09.)

547.13 - Interfering with city planting, caring or removing of trees.

No person shall prevent, delay or interfere with the Director or other City employee in the planting, pruning, spraying or removing of a tree on the public street, or in the removal of stone, cement or other substance from about the trunk of a tree. (Ord. 09-62. Passed 8-10-09.)

547.14 - Authority of public service director.

In the event the owner does not trim or remove any tree, plant or shrubbery, or any part thereof, in accordance with the provisions of this chapter, then the Director is authorized and it is declared to be his duty to have enforced the provisions of this chapter, and to cause to be trimmed or removed such tree, plant or shrub, or part thereof. (Ord. 09-62. Passed 8-10-09.)

547.15 - Written order; noncompliance; assessment of costs.

When the Director finds it necessary to order the trimming or removal of trees or shrubs upon public property as provided in Section 547.02, or upon private property as provided in Section 547.01, he shall serve a written order upon the owners of the lot or parcel of land by mailing a copy of such order to the last known address of the owner by first class mail. The order shall set forth a time limit, not to exceed fifteen days, for compliance. In case of extreme danger

to person or property compliance may be required immediately or the danger may be removed by the City without notice. Upon failure to comply with the order within the specified time, the City may remedy the condition or contract with others for such purpose and charge the cost thereof to the owner. The person remedying the condition shall be authorized to enter upon the premises for that purpose. If the cost of remedying the condition is not paid within ten days after a statement is mailed, such cost shall be levied against the property upon which the hazard exists, shall constitute a lien thereon and shall be certified to the County Auditor to be collected in the same manner as other taxes. The levying of such an assessment shall not affect the owner's liability for a fine as hereinafter provided. (Ord. 09-62. Passed 8-10-09.)

547.99 - Penalty.

Whoever violates any provision of this chapter or any rule or regulation promulgated thereunder or fails to comply therewith or with any written notice or written order issued thereunder shall be guilty of a misdemeanor and upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for a first offense and for a second or subsequent offense shall be guilty of a misdemeanor of the first degree. Each day such violation occurs or continues shall constitute a separate offense. (Ord. 09-62. Passed 8-10-09.)”

is hereby repealed in its entirety.

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED: December 5,2022


PRESIDENT OF COUNCIL


CLERK OF COUNCIL

APPROVED: December 5, 2022


MAYOR

101322 jt