

ORDINANCE NO.: 23-103
INTRODUCED BY: Mr. Winzig

AN ORDINANCE
**AMENDING CODIFIED ORDINANCE SECTION 1335.04 REGARDING
TREES ON PRIVATE PROPERTY, OVERHANGING PUBLIC PROPERTY AND
DEAD OR DISEASE TREES, AND DECLARING AN EMERGENCY**

WHEREAS, the City wishes to update the Codified Ordinance Section 1335.04 regarding Trees on Private Property, Overhanging Public Property and Dead or Diseased Trees;

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

SECTION 1. That Codified Ordinance Section 1335.04 which presently reads as follows:

“1335.04 TREES ON PRIVATE PROPERTY, OVERHANGING PUBLIC PROPERTY AND DEAD OR DISEASED TREES.

- (a) **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 Building Director or their designated agents (hereinafter the "Director") shall cause such trees to be trimmed or removed in accordance with such regulations, and assess the cost thereof against the owner of such lot or parcel of land.
- (1) The owner shall trim or cause to be trimmed each tree, plant or shrubbery so that a clear height of eight feet (8') between the lowest branches of the same and the sidewalk is maintained, and a clear height of fourteen feet (14') between the lowest branches of the same and the street is maintained.
 - (2) 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.
 - (3) 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.
 - (4) No Oak trees shall be trimmed during the months of April through October in order to prevent the further spread of Oak Wilt unless deemed necessary or hazardous after review by the Director or his/her designee.
- (b) **Infected, Dead or Diseased Trees:** 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 and on a public street right of way, 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 by delivering it personally to the owner of the property, or 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 30 days for compliance. 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. In case of extreme danger to person or property as determined by the Director of Public Services and Properties or his designee, compliance may be required immediately or the danger may be removed by the City by notifying the property owner by posting a written notice at the property or delivering the written notice personally to the owner.
- (3) 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. In the event a tree or part thereof is found to be dead or diseased, residents are encouraged to contact a Professional Commercial Tree Company with ISA certified professionals on staff to provide an assessment for the proper trimming, pruning and removal of the affected tree to ensure procedures used meet industry standards and safe removal practices.

(c) Boundary-Line Trees:

- (1) When a boundary-line tree trunk is on the line between two or more private properties, the respective property owners shall share the responsibility to care for and maintain the tree. In the event the tree becomes damaged, diseased or dies, the property owners will be expected to work together and shall be jointly responsible in the proper removal of the affected tree and its contents.
- (2) When a boundary-line tree is between the City right-of-way or City-owned land and private property, the City shall be responsible to maintain and/or properly remove the tree.
- (3) If a boundary line survey is required to determine ownership of a tree in question, the costs incurred to secure the survey shall be the responsibility of the property owners."

be and the same is amended to read:

"1335.04 TREES ON PRIVATE PROPERTY, OVERHANGING PUBLIC PROPERTY AND DEAD OR DISEASED TREES.

- (a) **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 be damaged, diseased or to have an infectious disease

shall conform to the regulations herein provided; otherwise, the Director of Public Services and Properties and/or the Building Director or their designee (hereinafter the "Director") shall cause such trees to be trimmed or removed in accordance with such regulations, and assess the cost thereof against the owner of such lot or parcel of land.

- (1) The owner shall trim or cause to be trimmed each tree, plant or shrubbery so that a clear height of eight feet (8') between the lowest branches of the same and the sidewalk is maintained, and a clear height of fourteen feet (14') between the lowest branches of the same and the street is maintained.
 - (2) The owner shall trim or remove, as required by the Director, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so that the same shall not fall to the street or sidewalk.
 - (3) The owner shall remove or trim 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.
 - (4) No Oak trees shall be trimmed or removed during the months of April through October in order to prevent the further spread of Oak Wilt unless deemed necessary or hazardous after review by the Director or his/her designee.
- (b) **Infected, Damaged, Dead or Diseased Trees:** The Director is authorized to inspect any tree or part thereof within the City which is suspected of being infected, damaged, diseased, or dead. If upon such inspection in the opinion of the Director a tree or part thereof is damaged, dead or a disease is present, the following action shall be taken by the Director:
- (1) On City-owned property and on a public street right of way, immediately order the removal of the tree or trimming in such a manner as to prevent as fully as possible the spread of any disease or to correct a hazardous condition.
 - (2) On private property, a written "notice of violation" shall be issued to the property owner by delivering it personally to the owner of the property, or 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 30 days for compliance. 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. In case of extreme danger to person or property as determined by the Director of Public Services and Properties or his designee, compliance may be required immediately or the danger may be removed by the City by notifying the property owner by posting a written notice at the property or delivering the written notice personally to the owner.
 - (3) 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. In the event a tree or part thereof is found to be damaged, dead or diseased, residents are encouraged to contact a Professional Commercial Tree Company with ISA certified

professionals on staff to provide an assessment for the proper trimming, pruning and removal of the affected tree to ensure procedures used meet industry standards and safe removal practices.

(c) Boundary-Line Trees:

- (1) When a boundary-line tree trunk is on the line between two or more private properties, the respective property owners shall share the responsibility to care for and maintain the tree. In the event the tree becomes damaged, diseased or dies, the property owners and shall be jointly responsible for the proper trimming, preservation, or removal of the affected tree.
- (2) When a boundary-line tree is between the City right-of-way or City-owned land and private property, the City shall be responsible to maintain and/or properly remove the tree.
- (3) If a boundary line survey is required to determine ownership of a tree in question, the costs incurred to secure the survey shall be the responsibility of the property owners.”

and present Section 1335.04 is hereby repealed.

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: October 2, 2023


VICE PRESIDENT OF COUNCIL


CLERK OF COUNCIL

APPROVED: October 2, 2023


MAYOR

091123 jt