

ORDINANCE NO. 32-26

BY: **DEBORAH LIME, ALLAN DIVIS, KELLY ZACHARIAS**
(By Request – Service Director)

AN ORDINANCE TO AMEND SECTIONS 1707.11 “TREES”
AND 1707.14 “SIDEWALKS, DRIVEWAYS, PARKING LOTS
AND APRONS” OF THE CODIFIED ORDINANCES OF THE
CITY OF PARMA, AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That Section 1707.11 “Trees” within Chapter 1707 “Basic Standards for Property Maintenance” of the Codified Ordinances of the City of Parma, which presently reads as follows:

1707.11 TREES.

- (a) The Director of Public Service shall and is hereby directed to keep trimmed all trees standing on any public place in the City so that the branches of such trees projecting over any public sidewalk on private driveway or into any public street beyond the curb line shall be not less than nine feet from the ground.
- (b) All trees standing on private property in the City and having branches projecting into public streets, highways or places shall, under the supervision of the Director, be kept trimmed by the owners or occupants of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public walk or driveway. Any trees within a side yard on private property shall have the branches trimmed so as to provide a minimum distance of five feet from the ground to the lowest branches when such branches are located within 15 feet of the intersection of a driveway with the public sidewalk.
- (c) If the owner or occupant of such private property neglects or refuses to trim such a tree, upon being notified, in writing, by the Director to do so and within the time specified in such notice, so as to comply with the foregoing provisions, it shall be the duty of the Director, after the expiration of the date specified in such notice, to cause the trimming to be done at the expense of the owner. The entire cost thereof shall be a lien upon such premises and shall be billed and collected as hereinafter provided.
- (d) The following acts, things and conditions done or existing within the City are hereby declared to constitute nuisances:
 - (1) Any tree upon any street or public place ~~or so near thereto~~ as to permit the roots of such tree to penetrate through or under the surface thereof;
 - (2) Any tree, plant or shrub, wherever located within the City, infected with any parasite, insect, fungus or pest, which may be communicated to any other tree, plant or shrub;
 - (3) Any tree which has fallen or is in such condition that it is likely to fall on any public or private property, including the property upon which it is situated;
 - (4) Any tree, plant or shrub whose branches or trunk obstructs or impedes traffic on any street or public place. Branches overhanging any public sidewalk,

pavement or roadway within nine feet on the surface thereof shall be deemed prima-facie to obstruct or impede traffic thereon;

- (5) Any tree, plant, hedge or shrub on any public or private property which is located in such a manner as to obstruct the view of traffic, including, but not limited to, obstructing the visibility of neighbors when exiting their driveways.
- (e) No person shall knowingly create, maintain or refuse to abate a nuisance as defined in subsection (d) hereof.

Is hereby amended to read as follows, with additions shown in bold, underlined text, and deletions shown in crossed out text:

1707.11 TREES.

- (a) The Director of Public Service shall and is hereby directed to keep trimmed all trees standing on any public place in the City so that the branches of such trees projecting over any public sidewalk on private driveway or into any public street beyond the curb line shall be not less than nine feet from the ground.
- (b) All trees standing on private property in the City and having branches projecting into public streets, highways or places shall, under the supervision of the Director, be kept trimmed by the owners or occupants of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public walk or driveway. Any trees within a side yard on private property shall have the branches trimmed so as to provide a minimum distance of five feet from the ground to the lowest branches when such branches are located within 15 feet of the intersection of a driveway with the public sidewalk.
- (c) If the owner or occupant of such private property neglects or refuses to trim such a tree, upon being notified, in writing, by the Director to do so and within the time specified in such notice, so as to comply with the foregoing provisions, it shall be the duty of the Director, after the expiration of the date specified in such notice, to cause the trimming to be done at the expense of the owner. The entire cost thereof shall be a lien upon such premises and shall be billed and collected as hereinafter provided.
- (d) The following acts, things and conditions done or existing **on private property** within the City are hereby declared to constitute nuisances:
 - (1) Any tree ~~upon~~ **so near** any street or public place ~~or so near thereto~~ as to permit the roots of such tree to penetrate through or under the surface thereof;
 - (2) Any tree, plant or shrub, ~~wherever located within the City,~~ infected with any parasite, insect, fungus or pest, which may be communicated to any other tree, plant or shrub;
 - (3) Any tree which has fallen or is in such condition that it is likely to fall on any public or private property, including the property upon which it is situated;
 - (4) Any tree, plant or shrub whose branches or trunk obstructs or impedes traffic on any street or public place. Branches overhanging any public sidewalk, pavement or roadway within nine feet on the surface thereof shall be deemed prima-facie to obstruct or impede traffic thereon;
 - (5) Any tree, plant, hedge or shrub ~~on any public or private property~~ which is located in such a manner as to obstruct the view of traffic, including, but not limited to, obstructing the visibility of neighbors when exiting their driveways.
- (e) No person shall knowingly create, maintain or refuse to abate a nuisance as defined in subsection (d) hereof.

Section 2. That only that portion of Section 1707.11 "Trees" of the Codified Ordinances of the City of Parma, as it existed heretofore, is hereby repealed and replaced.

Section 3. That Section 1707.14 "Sidewalks, Driveways, Parking Lots and Aprons" within Chapter 1707 "Basic Standards for Property Maintenance" of the Codified Ordinances of the City of Parma, which presently reads as follows:

1707.14 SIDEWALKS, DRIVEWAYS, PARKING LOTS AND APRONS.

- (a) All sidewalks, driveways and parking areas shall be maintained in a proper state of repair.
- (b) Public sidewalks must be kept free of vegetation growing in cracks or joints. Any change in the level of a sidewalk, or any crack, exceeding one inch (26 millimeters) shall be considered hazardous and must be repaired.
- (c) Driveways and parking lots shall be maintained free of potholes and other surface irregularities and shall be maintained in accordance with the specifications prescribed in Chapters 1197 and 1512 of these Codified Ordinances.
- (d) Public sidewalks shall not be patched or resurfaced, but must be replaced with concrete in accordance with the specifications prescribed in Chapter 1529 of these Codified Ordinances. Leveling of sidewalk sections is permitted.
- (e) All driveway aprons shall be kept in a proper state of repair, free of holes, surface deterioration or cracks which cause sections to become loose or otherwise hazardous. All repairs or replacements of driveway aprons shall be of concrete. However, if the apron covers a drainage pipe and may be subject to movement, a written waiver must be obtained from the Code Official to allow installation of asphalt.
- (f) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any other nuisance.
- (g) All parking areas shall be properly maintained with each parking space distinctly marked with clearly painted lines.

Is hereby amended to read as follows, with additions shown in bold, underlined text:

1707.14 SIDEWALKS, DRIVEWAYS, PARKING LOTS AND APRONS.

- (a) All sidewalks, driveways and parking areas shall be maintained in a proper state of repair. **This section is not applicable to conditions caused by utility infrastructure or the roots of trees in tree lawns.**
- (b) Public sidewalks must be kept free of vegetation growing in cracks or joints. Any change in the level of a sidewalk, or any crack, exceeding one inch (26 millimeters) shall be considered hazardous and must be repaired.
- (c) Driveways and parking lots shall be maintained free of potholes and other surface irregularities and shall be maintained in accordance with the specifications prescribed in Chapters 1197 and 1512 of these Codified Ordinances.
- (d) Public sidewalks shall not be patched or resurfaced, but must be replaced with concrete in accordance with the specifications prescribed in Chapter 1529 of these Codified Ordinances. Leveling of sidewalk sections is permitted.
- (e) All driveway aprons shall be kept in a proper state of repair, free of holes, surface deterioration or cracks which cause sections to become loose or otherwise hazardous. All repairs or replacements of driveway aprons shall be of concrete. However, if the apron covers a drainage pipe and may be subject to movement, a written waiver must be obtained from the Code Official to allow installation of asphalt.
- (f) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any other nuisance.
- (g) All parking areas shall be properly maintained with each parking space distinctly marked with clearly painted lines.

Section 4. That only that portion of Section 1707.14 "Sidewalks, Driveways, Parking Lots and Aprons" of the Codified Ordinances of the City of Parma, as it existed heretofore, is hereby repealed and replaced.

Section 5. 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 the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City of Parma, and for the further reason that this measure is necessary for the management of trees on public property, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: _____ PRESIDENT OF COUNCIL

ATTEST: _____ APPROVED: _____
CLERK OF COUNCIL

FILED WITH THE MAYOR: _____ MAYOR, CITY OF PARMA, OHIO