

# COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2018-27

By Nick Haschka Sponsored By Mayor Cyril M. Kleem  
AN ORDINANCE

AMENDING SECTION 327.18, TREE PRUNING; PRIVATE PROPERTY, AND SECTION 327.22, GRASS AND WEEDS AS A NUISANCE, AND REPEALING SECTION 327.23, REMOVAL OF TREES, WEEDS, GRASSES BY CITY, AND SECTION 327.24, ASSESSMENT OF COSTS BY CITY, OF CHAPTER 327, TREES AND WEEDS, OF THE CODIFIED ORDINANCES OF THE CITY OF BREA,  
AND DECLARING AN EMERGENCY

WHEREAS, the Council of the City of Berea finds that dead, decayed or broken trees, plants or shrubs on public and private property may present health and safety risks to others and, therefore, constitute a nuisance condition; and

WHEREAS, it is necessary to require that trees maintained on both public and private property be maintained in a proper manner so as to reduce the risk of physical harm to other persons or properties; and

WHEREAS, by declaring certain conditions involving dead, decayed or broken trees, plants or shrubs as nuisances, the City may take action to abate said nuisances to prevent physical harm to persons or properties and to provide a means by which to assess the costs to property owners.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

Section 1. That Section 327.18, TREE PRUNING; PRIVATE PROPERTY, which heretofore has read as follows:

## 327.18 TREE PRUNING; PRIVATE PROPERTY.

The owner of every lot or parcel of land within the City upon which a tree, plant or shrubbery stands with part thereof upon or overhanging a public street or sidewalk shall conform to the regulations herein provided. Otherwise, the City shall cause the trees to be trimmed or cut down and removed in accordance with the regulations and assess the cost thereof against the owner of the 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 nine feet between the lowest branches of the same and the street, and a clear height of seven feet between the lowest branches of the same and the 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 the street or sidewalk.

Shall be and is hereby amended to read in its entirety as follows:

## 327.18 TREE PRUNING; PRIVATE PROPERTY

The owner of every lot or parcel of land within the City upon which a tree, plant or shrubbery stands shall conform to the regulations herein provided.

- (a) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a minimum clear height of nine (9) feet between the lowest branches of the same and the street and 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, that is likely to fall on any public or private property, including the property upon which it is situated.
- (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 the street or sidewalk.

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SECTION 2. That Section 327.22 GRASS AND WEEDS AS A NUISANCE, which heretofore has read as follows:

## 327.22 GRASS AND WEEDS AS A NUISANCE.

The existence, upon any lot or parcel of land within the City, of grass or weeds likely to catch fire and spread such fire to other property, or of weeds which are spreading or maturing seeds, or about to do so, or of ragweed, goldenrod, poison ivy or poison oak, is declared a nuisance.

(a) On any lot or parcel within the City, not meeting the requirements of subsection (b) below, grass or weeds growing to a height of six inches or more shall be *prima facie* deemed to be likely to catch fire and spread such fire to other property.

(b) On any undeveloped parcel of land one acre or greater in C-C, G, G-1 and L-1 zoning districts, grass and weeds growing in excess of six inches or more within the first thirty feet of land that is adjacent to any public right of way shall be *prima facie* deemed to be likely to catch fire and spread such fire to other property.

(c) No person who is the owner, occupant or who has charge, care or control of any lot or parcel of land within the City shall permit a nuisance as herein defined to exist or continue thereon.

Shall be and is hereby amended to read in its entirety as follows:

## 327.22 TREES, GRASS, WEEDS AND OTHER CONDITIONS AS A NUISANCE; ABATEMENT

### (a) Trees

The following acts, things and conditions done or existing within this City are declared to constitute nuisances:

(1) Any tree upon any street or public place or so near thereto as to permit the roots of the 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, plant or shrub, or part thereof, which has fallen or is in such condition that if it falls, is likely to cause harm to persons or 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, street or roadway within (9) feet of the public sidewalk, pavement, street or roadway, or within thereof, shall be deemed *prima facie* to obstruct or impede traffic thereon.

### (b) Grass, Weeds and Other Conditions

(1) The existence, upon any lot or parcel of land within the City, of grass, weeds, or other combustible material likely to catch fire and spread such fire to other property, or of weeds which are spreading or maturing seeds, or about to do so, or of ragweed, goldenrod, poison ivy or poison oak, or of any other condition existing upon any lot or parcel that is likely to become airborne, or to harbor vermin or insects, or to cause deterioration to any structure, rot, decay, or create noxious odor or condition, or is likely to enter into the storm drain or to create an environmental hazard or health concern, or to spread or reach beyond outside of any given parcel, or as otherwise set forth below is declared a nuisance.

(2) On any lot or parcel within the City, not meeting the requirements of subsection (2) below, grass or weeds growing to a height of six inches or more shall be *prima facie* deemed to be likely to catch fire and spread such fire to other property.

(3) On any undeveloped parcel of land one acre or greater in the CC, GI, and BR-CD Zoning Districts, grass and weeds growing in excess of six inches or more within the first thirty feet of land that is adjacent to any public right of way shall be *prima facie* deemed to be likely to catch fire and spread such fire to other property.

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(c) Whenever in the opinion of the Director of Public Service any of the nuisances defined in this section exist, the Director shall cause its abatement, which may include trimming or removal of any tree, plant, shrubbery, grass, weeds, vines or other materials constituting said nuisance, and cause the cost of the abatement to be charged and collected, in the manner provided in Chapter 931 of the Codified Ordinances.

(d) No person who is the owner, occupant or who has charge, care or control of any lot or parcel of land within the City shall permit a nuisance as herein defined to exist or continue thereon.

**SECTION 3.** That Section 327.23, Removal of Grass, Trees and Weeds by City, and Section 327.24, Assessment of Costs by City, which heretofore have read as follows:

**327.23 REMOVAL OF TREES, WEEDS, GRASSES BY CITY.**

In the event the owner does not trim or remove any tree, plant or shrubbery, or any part thereof or any weeds, vines or grasses in accordance with the provisions of this chapter, then the Director of Public Service 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 the tree, plant or shrubbery or part thereof, and cut and remove all grass and weeds.

**327.24 ASSESSMENT OF COSTS BY CITY.**

Whenever any tree, plant or shrubbery or part thereof, or weeds and grass are growing in any street, public place or upon private property contiguous to a street or sidewalk or public place, and are trimmed or removed by the City, then, after the work is done the City shall give five days' notice, by regular mail, to the owner of the lot or parcel of land at his last known address to pay the cost of the trimming or removal of trees, plants, shrubbery, grass or weeds, or parts thereof, which notice shall be accompanied by a statement of the amount of cost incurred. In the event the same is not paid within thirty days after the mailing of the notice, then the amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected.

Shall be and are hereby repealed.

**SECTION 4.** 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 of any of its committees that 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.

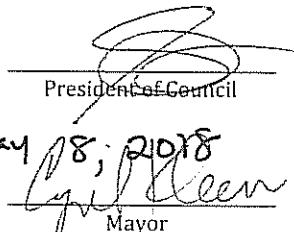
**SECTION 5.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that the nuisances referenced above can detrimentally affect the health and safety of the residents of the City of Berea, and such nuisance conditions must be remedied as soon as possible in order to prevent damages to persons and properties. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: May 7, 2018

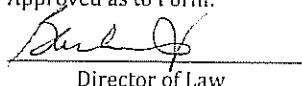
  
President of Council

ATTEST: Alayna Esan  
Clerk of Council

APPROVED: May 18, 2018

  
Mayor

Approved as to Form:

  
Director of Law