

ORDINANCE NO. 139-15

**AN ORDINANCE TO AMEND CHAPTER 1028 OF THE CODIFIED
ORDINANCES OF THE CITY OF AVON TO REPEAL SECTION 1028.10
AS IT PERTAINS TO PROHIBITED TREES
AND DECLARING AN EMERGENCY**

WHEREAS, language in §1028.10 of the Codified Ordinances of the City of Avon can be misconstrued to prohibit the planting or growing of certain trees within twenty (20) feet of a property line; and

WHEREAS, the Law Department and the Legal Committee of Council met on October 5, 2015 to address this potential misapplication of the ordinance and Legal Committee unanimously recommended to Council an amendment to §1028.10 to clarify that said provision would only apply to certain trees as they might, in the opinion of the Service Director, impact safe travel within and upon the City's right of way; and

WHEREAS, upon further discussions with Council at the October 19, 2015 work session, the Planning Coordinator and the Law Director pointed to other sections of the Avon Codified Ordinances that regulate trees planted and grown in or near City right-of-ways and recommended that §1028.10 should be repealed to avoid any confusion and conflict with existing sections of the codified ordinance; and

WHEREAS, Council finds that adoption of the proposed amendment to repeal Section 1028.10 of the Codified Ordinances to be necessary to protect the public peace, health, safety and welfare of the citizens of the City of Avon by providing clear, unambiguous guidelines for planting and growing trees on public and private property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - It is necessary to amend Chapter 1028 of the Codified Ordinances of the City of Avon by repealing §1028.10 which presently reads as follows:

~~———— 1028.10 CERTAIN TREES PROHIBITED.~~

~~———— No silver maple, poplar, box elder, basswood, willow or honey locust tree shall be planted or grown upon any tree lawn or within twenty feet of any and all property lines. (Ord. No. 50-76. Passed 9-8-76.)~~

Section 2 - The codifier is hereby instructed to remove Section 1028.10 from Chapter 1028 of the Avon Codified Ordinances.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 3 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to repeal Section 1028.10 of the Avon Codified Ordinances to eliminate any potential misapplication of the ordinance; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director