

ORDINANCE NO. 10 -81

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE PROTECTION, CONTROL AND REMOVAL OF TREES, PLANTS AND SHRUBS IN AND ALONG PUBLIC RIGHTS OF WAY, PUBLIC PLACES AND PARKS IN THE VILLAGE OF SPENCER, OHIO, ESTABLISHING A VILLAGE TREE COMMISSION, PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND TO DECLARE AN EMERGENCY

BE IT ORDAINED by the Council of the Village of Spencer, Ohio, three-fourths of its members concurring herein, as follows:

Section 1. Title of Ordinance

This Ordinance shall hereafter be referred to as the Spencer Village Tree Ordinance.

Section 2. Spencer Village Tree Commission

There is hereby established the Spencer Village Tree Commission which shall consist of five (5) members who are residents of or employed by the Village of Spencer. One of the members of the Tree Commission shall be a member of the Village Council selected by the Mayor and one of the members of the Tree Commission shall be the Village Street Superintendent. The other three (3) members of the Tree Commission shall be appointed by the Mayor with the approval of the Village Council. The terms of the three (3) so appointed shall be for three years, except that the term of one of the three (3) first appointed shall be for one year and the term of one other of the three (3) first

appointed shall be for two years. Members shall serve without compensation.

Section 3. Duties and Responsibilities of the Tree Commission

The Spencer Village Tree Commission shall have the duty and responsibility to study, investigate, develop, administer and update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees, plants and shrubs in and along any public rights of way, public places and parks within the Village of Spencer. Such plans shall be presented annually to the Village Council for approval and shall constitute the official comprehensive Spencer Village Tree Plan. The Tree Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The Tree Commission shall develop a list of approved tree species which shall be updated and amended by the Tree Commission from time to time. No species other than those on the said list shall be planted within or along the public rights of way, public places and parks within the Village of Spencer. The Tree Commission shall designate the approved and appropriate species for planting at particular places or areas in and along the public rights of way, public places and parks.

Section 4. Enforcing Authority

The Village Street Superintendent or his designated

agents shall be charged with administering this Ordinance at the direction of the Tree Commission and shall be further charged with the overall enforcement of this ordinance.

Section 5. Removal of Trees

The Village Street Superintendent or his duly authorized representative may cause to be trimmed, pruned, or removed, any trees, shrubs, plants, or vegetation in any public rights of way, public place or parks or may require any property owner to trim, prune, or remove any trees, shrubs, plants, or vegetation in a public right of way abutting upon said owner's property, and failure to comply therewith after 30 days notice by the Village Street Superintendent shall be deemed a violation of this Ordinance.

Section 6. Dangerous Trees a Nuisance; Summary Powers to Remove Same

Any tree or shrub growing in a public right of way, or any public place or park, or in private property, which is endangering or which in any way may endanger the security or usefulness of any public street, public place, park, sewer, or sidewalk, is hereby declared to be a public nuisance, and the Village Street Superintendent may remove or cause to be removed or trimmed such tree, or may require the property owner to remove or trim any such tree on private property or in a public right of way abutting upon said owner's property. Failure of the property

owner to remove or trim such tree after thirty days' notice by the Village Street Superintendent shall be deemed a violation of this ordinance, and the Village Street Superintendent may then remove or trim said tree and assess the costs against the property.

Section 7. Appeals

Appeals from orders or notices made hereunder may be made by filing written notice thereof with the Spencer Village Clerk within ten days after such order or notice is received, stating in substance that appeal is being made from such order or notice to the Village Council. The Clerk shall thereupon call such appeal to the attention of the Village Council at the next regular succeeding meeting at which meeting the appellant and Village Street Superintendent may present evidence. Action taken by the Village Council after such hearing shall be conclusive.

Section 8. Abuse or Mutilation of Trees

It shall be a violation of this Ordinance to abuse, destroy or mutilate any tree, shrub or plant in or along a public right of way or any other public place or park within the Village of Spencer, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill, or other thing to or on any tree, shrub or

plant, or to cause or permit any wire charged with electricity to come in contact with any such tree, shrub or plant or to allow any gaseous, liquid, or solid substance which is harmful to any such tree, shrub or plant to come in contact with their roots or leaves.

Section 9. Violation of This Ordinance-Penalty

Any person violating or failing to comply with any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed twenty (20) days or both. Each tree, shrub or plant involved in an act of abuse, destruction or mutilation shall be considered a separate violation of this Ordinance.

Section 10. Conflict

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 11. Validity

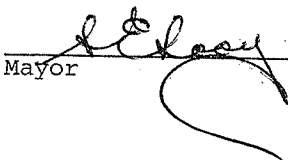
If any section or part of a section of this Ordinance is declared invalid by any court of competent jurisdiction such decision shall be deemed to apply to that section or part of section only and shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

Section 12. Emergency Measure

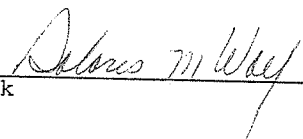
This Ordinance is hereby declared to be an emergency measure, necessary for the public peace, health, safety and welfare of the Village of Spencer and for the particular reason that the provisions of this ordinance are immediately necessary for the protection and enhancement of the trees, shrubs and plants in public rights of way, public places and parks within the Village of Spencer, and that this Ordinance shall be in full force and effect from and after its passage.

PASSED;

ATTEST:



Mayor



Clerk