

ORDINANCE NO. 978

AN ORDINANCE AMENDING THE CODE OF THE CITY OF COTTONWOOD FALLS, KANSAS, 1991, RELATING TO TREES AND SHRUBS REPEALING ANY PRIOR LANGUAGE TO ADOPT THE FOLLOWING TO BE REFERENCED AND LOCATED IN THE CODE OF THE CITY OF COTTONWOOD FALLS, KANSAS AS CHAPTER XIII STREETS AND SIDEWALKS, ARTICLE 3 TREES AND SHRUBS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COTTONWOOD FALLS, KANSAS, THAT:

SECTION 1. Article 3 of Chapter XIII of the code of the City of Cottonwood Falls, Kansas, relating Trees and Shrubs is enacted and adopted as reflected below, to-wit:

13-301. Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the line of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or its affected with any injurious fungus, insect or other pest.

13-302. Diseased trees; determination.

Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction or other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice.

13-303. Same; notice served.

Notice shall be served by a person(s) designated by the city council for service of process by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city shall notify the owner by mailing a notice by certified mail to his/her last known address.

13-304. Same; failure of owner; duty of city.

If the owner or agent shall fail to comply with the requirements of the notice within the time

specified in the notice, then the utilities supervisor or his designee shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing such work, the governing body may contract with any competent person, company or corporation for the performance of such work.

13-305. Same; prevent spread of disease.

No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city shall remain on the premises, but shall immediately be removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.

13-306. Dead and dangerous trees on private property.

(A) Every owner of any tree, tree materials or shrubs overhanging any street or right-of way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spreading of light along the street from the street light, or interferes with the visibility of any traffic control device or sign.

(B) The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their expense within 30 days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the city shall have the authority to remove the trees and charge of the cost of removal on the owner's property tax notice.

13-307. Trees on public property; costs.

No person shall plant any tree, shrub or any other plant on a city right-of way without first obtaining a written exception from the city. The city shall have the right to treat or remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large. Any costs for the removal by the city for plantings purposefully placed on the right-of-way by the adjacent landowner shall be assessed to the landowner.

13-308. Cost on tax rolls.

The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304 or 13-306 or 13-307 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other

proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city.

13-309. Injuring trees and shrubs.

No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure, mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city.

13-310. Fire hydrants, planting adjacent to.

No person shall plant or cause to be planted nor allow to grow upon property owned by him/her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction.

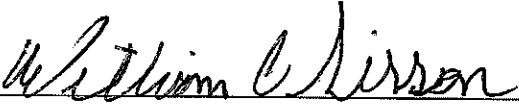
13-311. Fees assessed for failing to comply with article.

The city may assess a fee to the landowner in addition to the costs of removal for failing to comply with this article. The fee of \$100 shall be applied in accordance with other cases in compliance with this article.

SECTION 2. All ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall be effective from and after its publication in the official City newspaper Chase County Leader-News.

PASSED and ADOPTED this 19th day of March, 2018.



Boyce Baumgardner, Mayor

ATTEST:



Tiffany Bohnen, City Clerk

