

ORDINANCE NO. 727

AN ORDINANCE AMENDING ARTICLE 3, CHAPTER XIII OF THE CODE OF THE CITY OF OGDEN, KANSAS, PERTAINING TO TREES AND SHRUBS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OGDEN, KANSAS:

Section 1. Amendment. That Article 3, Chapter XIII of the Code of the City of Ogden, Kansas, is hereby amended to read as follows:

ARTICLE 3. TREES AND SHRUBS

13-301. DEFINITIONS. For purposes of this article, the following words shall have the meanings set out in this section:

(a) Trees -- Trees, shrubs, bushes, and all other woody vegetation.

13-302. APPLICABILITY OF THIS ARTICLE. This Article shall only apply to the planting, pruning, trimming, maintaining, removal and other care of trees in the public rights-of-way, in public parks, and in other public areas of the City, except as otherwise and specifically set forth herein.

13-303. TREES DESIGNATED. The City shall maintain a list (hereinafter, the City Tree List) of approved trees, categorized by three sizes (small, medium and large), for planting pursuant to this Article. The City Tree List shall be available upon request to aid in the selection of trees and shall be updated periodically by the Governing Body. No person shall plant any tree in the public right-of-way, except those trees on the City Tree List.

13-304. SPACING. The spacing of trees will be in accordance with the three species size classes listed in the City Tree List, and no tree may be planted closer to any other tree, than the following distances:

- (a) Small Trees - 30 feet;
- (b) Medium Trees - 40 feet;
- (c) Large Trees - 50 feet.

13-305. DISTANCE; CURB AND SIDEWALK. No tree shall be planted within ten feet of any curb or street. The distance trees may be planted from sidewalks shall be in accordance with the three size classes listed in the City Tree List, and no tree shall be planted closer to any sidewalk than the following:

- (a) Small Trees - two feet;
- (b) Medium Trees - three feet;
- (c) Large Trees - four feet.

13-306. SAME; STREET CORNERS; FIREPLUGS. No tree shall be planted within the vision triangle of any street intersection, such triangle being 45 feet from any street corner, measured from the point of nearest intersecting curbs or edge of the street. No tree shall be planted closer than 10 feet of any fireplug.

13-307. UTILITIES. No trees other than those species listed as small trees in the City Tree List may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground waterline, sewer line, transmission line or other utility.

13-308. PUBLIC CARE. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, public grounds and rights-of way as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds and public rights-of-way. 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 is affected with any injurious fungus, insect or other pest.

13-309. PRUNING; CORNER CLEARANCE. (a) Every owner of any tree 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 eight 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 spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city shall notify in writing the owners of such trees needing pruning. Pruning shall be done by the owners at their own expense within 10 days after the date of service of notice. The owners, within 7 days of the notice, may request a hearing covering the ordered pruning. In the event of failure of owners to comply with such provisions, the city shall have the authority to prune the trees and charge the cost of removal on the owner's property tax notice.

- 13-310. DEAD OR DISEASED; REMOVAL. The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. The city shall notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.
- 13-311. INTERFERING WITH CARE OF TREES PROHIBITED. It shall be unlawful for any person to prevent, delay or interfere with the city, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees as authorized in this article.
- 13-312. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal or pruning of trees performed under the authority of section 13-311 and 13-312 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 therefor are received or when such assessments are collected and received by the city.
- 13-313. CITY PARK TREES. The city shall generally follow the rules set forth in this Article for the planting, pruning and care of trees within the City's parks; however, it may deviate from this Article as determined in its sole discretion.
- 13-314. TREE AND LIMB DEPOSITORY AT SIXTH AND SOUTH PARK STREETS. (a) The City has a state permit to operate a tree, limb and leaf depository at the intersection of Sixth and South Park Streets. This state-issued permit will be rescinded if items other than those authorized and permitted are deposited, dumped, or left at this location.
- (b) No person shall leave, deposit, dump, or otherwise cause to be left, any objects, items, or substances other than trees, tree branches, limbs, grass clippings, leaves, wood chips, shrubs, or shrub clippings at the depository located as Sixth and South Park Streets.

(c) Any person violating subsection (b) shall be deemed guilty of a Class B misdemeanor upon conviction, and shall be subjected to a fine not in excess of \$1,000 and/or a term of incarceration for not more than six months.

Section 2. All other ordinances in conflict herewith are hereby repealed.

Section 3. Effective Date. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED AND ADOPTED THIS 20th DAY OF JUNE 2018, BY THE GOVERNING BODY OF THE CITY OF OGDEN, KANSAS.



David Ward

DAVID WARD, City Clerk

Robert Pence

ROBERT PENCE

Mayor