

ORDINANCE NO. 1810

AN ORDINANCE AMENDING ARTICLE 3 OF CHAPTER XIII OF THE CODE OF THE CITY OF WAMEGO, KANSAS, REPEALING ORDINANCES 1037 and 1090 AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WAMEGO, KANSAS:

Section 1. Article 3 of Chapter XIII of the City Code of Wamego, Kansas shall read as follows:

13-301 Definitions. As used in the article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

- a. "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines and either side of the street, avenues or within the city right of way.
- b. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city or to which the public has free access as a park.
- c. "Private trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on private property not within the city right of way.

13-302 CREATION AND ESTABLISHMENT OF A TREE BOARD. There is hereby created and established a tree board for the City of Wamego, Kansas, which shall consist of the full-time employees in the City of Wamego Parks and Cemetery Department, within the Department of Public Works. (Ordinance 1787).

13-303 DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the board to study, investigate, cancel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks along streets and in other public areas. Such plans shall be presented to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Wamego, Kansas.

13-304 OPERATION. A majority of the members shall be a quorum for the transaction of business.

13-305 RECOMMENDED TREE SPECIES TO BE PLANTED. The board shall maintain a list of recommended trees for planting. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated as necessary. The City Clerk shall maintain the tree list on file in the city office.

13-306 SPACING. Planting trees is not permitted in the city right-of-way.

13-307 DISTANCE FROM CURB AND SIDEWALK. Trees may be planted on private property outside of the city right-of-way.

13-308 DISTANCE FROM STREET CORNERS AND FIRE PLUGS. No trees shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of the nearest intersecting curbs or curblines. No street trees shall be planted closer than ten (10) feet of any fire hydrant.

13-309 UTILITIES. (a) No trees other than those species specified as small trees in section 13-305 may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

(b) By and with the consent of the owner of any tree involved, the City Manager may authorize the reasonable and necessary trimming or cutting of any tree or tree limbs which interfere with or constitute a hazard to the city's electrical power lines regardless of whether such tree grows along a street, sidewalk or alley or upon public or private grounds. If the property owner refuses to give such consent, the City Manager is hereby authorized to refuse electrical service to the property affected.

(c) If any utility company authorized by the city finds it necessary to cut or trim any tree which is interfering with or creating a hazard to its lines, it may, with the permission of the abutting lot owner or his or her agent cut or trim the offending tree as necessary to eliminate the interference or hazard. If permission is not granted the City Manager shall have the authority to determine the mode, manner and extent of the cutting and trimming necessary and the decision shall be final.

13-310 PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain and remove trees, plants, shrubs and tree stumps, within the line of all streets, alleys, avenues, lanes, squares and public grounds, to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The tree board 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 the sewers, electric power lines, gas lines, water lines, public safety, or other public improvements, or is affected with any injurious fungus, insect or other pest. The abutting property owners shall have the right to perform normal tree care on all street trees.

13-311 TREE TOPPING. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than two and a half (2 ½) inches in diameter within the tree's crown to such a degree to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical may be exempted from this article at the determination of the tree board.

13-312 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 the branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of fourteen (14) feet above the surface of the street and eight (8) feet of the sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to safety or 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 streetlight or interferes with the visibility of any traffic control device or sign.

(b) On corner lots in residential districts no shrubbery or planting shall be allowed to grow in such a manner as to obstruct vision between a height of two and one-half and 14 feet above the centerline grade of the intersecting streets.

13-313 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. (a) Whenever any competent city authority or competent state or federal authority shall file with the tree board, 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 of other trees or shrubs in the community, describing the same and where located. The tree board shall issue a notice in writing 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.

(b) Notice shall be served by a police officer or code enforcement 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 Clerk shall notify the owner by mailing a notice by certified mail to his or her last known address.

(c) If the owner or agent fail to comply with the requirements of the notice within the (60) day time specified in the notice, then the tree board 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 any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.

(d) 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 this article 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 funds of the city, and such fund shall be reimbursed when payment is received or when such assessments are collected and received by the city.

13-314 PERMIT FOR REMOVING, CUTTING, DEFACING THE TREES AND SHRUBS. It shall be unlawful for a person without a written permit from the city to prune, remove, destroy, cut girdle, paint, whitewash or deface any tree or shrub in any part of the streets, alleys, avenues or ways, or to injure any of the said trees and shrubs by root cutting or exposure, or by placing oil or any injurious chemical or substance on the ground around such tree or shrub, or by tying animals to, or piling building materials about, or by attaching signs, supports, wires or other devices to any of said trees or shrubs. Said permit shall state specifically the work to be done under it and shall be void after thirty (30) days from the date thereof. A permit is to be obtained at the City Clerk's office. There will be no fee for the permit.

13-315 REMOVAL OF STUMPS FROM STREETS. Any tree, tree stump, shrub or vine that shall be removed from any of the streets, avenues, alley or public ways shall be removed below the surface of the ground so that the top of the stump removed shall not project above the surface of the ground.

13-316 INTERFERENCE WITH CITY TREE BOARD. It shall be unlawful for any person to prevent, delay or interfere with the tree board, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees private grounds, as authorized in this article.

13-317 ARBORISTS LICENSE AND INSURANCE. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing trees within the city without first applying for and procuring a license. Revocation of the license may be made by the tree board upon a hearing before the tree board. No license shall be required before any city employee doing such work in the pursuit of their public service endeavors. A license is to be purchased at the city clerk's office.

13-318 REVIEW BY THE GOVERNING BODY. Any person may appeal against any ruling or order of any tree board to the governing body who may hear the matter and make a final decision thereon.

13-319 PENALTY. Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction or a plea of guilt, may be fined in any sum less than five hundred dollars (\$500) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

Section 2. That all other Ordinances or parts of Ordinances in so far as they conflict with the Ordinance, and the same are hereby repealed.

Section 3. Effective Date. This Ordinance shall be in for from and after publication in the official city newspaper.

Passed by the Governing body of the City of Wamego, Kansas this 19th day of November 2024.

Richard L. Weixelman

Richard Weixelman, Mayor

ATTEST:



Shanda Jahnke

Shanda Jahnke, City Clerk