

City of Saline – Tree Ordinance

ARTICLE I. IN GENERAL

Sec. 90-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City superintendent or *superintendent* means the city superintendent or his representative designated for purposes of the enforcement of this chapter.

Park means all public parks having individual names, and all areas owned by the city, or to which the public has free access.

Public utility means any person, organization, firm or corporation, public or private, duly authorized to supply electric, gas, telephone, telegraph or water service to, or for the general benefit of, the public.

Right-of-way means any public street, highway, alley or avenue of the city.

Trees and shrubs means all woody vegetation.

(Ord. No. 137, § 1, 9-19-56; Code 1968, § 20-1; Ord. No. 210, § 1, 6-2-69; Ord. No. 286, § 2, 1-6-75)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 90-2. Applicability.

The terms of this chapter, unless otherwise specifically stated, shall apply only to public streets, alleys, highways, highway easements, parkways, parks and other land publicly owned or controlled by the city.

(Ord. No. 137, § 2, 9-19-56; Code 1968, § 20-2)

Sec. 90-3. Enforcement by department of public works.

The department of public works shall be charged with the duty of enforcing the provisions of this chapter and shall discharge all duties that may be required or imposed by the city superintendent.

(Ord. No. 137, § 2, 9-19-56; Code 1968, § 20-3)

Sec. 90-4. General control by superintendent in accordance with recommendations of parks and beautification commission.

The city superintendent shall have control over all trees, shrubs and plants in the streets, alleys and parks of the city and is empowered to plant, prune, spray, cultivate and preserve all trees and shrubs within the confines of the streets, alleys, parks and public areas of the city in accordance with written recommendations duly made by the parks and beautification commission. In areas of policy or procedure where the parks and beautification commission has failed to make a written recommendation, the city superintendent shall have the authority to exercise his own discretion; provided, however, that in areas where such written recommendations have been made by the parks and

beautification commission, they shall be followed by the city superintendent, unless overruled by the council.

(Ord. No. 137, § 3, 9-19-56; Code 1968, § 20-4; Ord. No. 210, § 2, 6-2-69)

Sec. 90-5. Permission required to prune, spray, plant, remove.

No person shall prune, spray, plant or remove any shrubs or trees upon the rights-of-way or parks without first obtaining a written permit from the city superintendent.

(Ord. No. 137, § 3, 9-19-56; Code 1968, § 20-5)

Sec. 90-6. Permit required to cut, break down, destroy.

No person shall cut or break down or destroy any trees or shrubs in the rights-of-way or parks at any time without first obtaining the written permission of the city superintendent.

(Ord. No. 137, § 3, 9-19-56; Code 1968, § 20-6)

Sec. 90-7. Planting regulated.

No person shall plant any shade or ornamental trees in the rights-of-way or parks except by permission of the superintendent, and then only if they are of a variety or size acceptable to the department of public works. In no event shall any tree be planted in the rights-of-way where police, fire, street lighting, traffic signal or public utility, overhead wires and equipment are located that will exceed a maximum growth of 40 feet. No person shall have the right to plant any variety of poplar, willows, box elders, soft maples, tree of heaven, prickly ash, wild chestnut, cottonwood or other quick-growing trees in such a location that their roots are likely to injure sewers or heave walk or street surfaces.

(Ord. No. 137, § 3, 9-19-56; Code 1968, § 20-7; Ord. No. 438, § 1, 3-20-89)

Sec. 90-8. Fastening things to trees.

It shall be unlawful for any person to use any tree as an anchor, and no material shall be fastened to or hung on any tree in any rights-of-way or park.

(Ord. No. 137, § 4, 9-19-56; Code 1968, § 20-8)

Sec. 90-9. Excavations, driveways near trees.

Excavations and driveways shall not be placed within six feet of any tree without written permit from the city superintendent or his authorized agent. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the department of public works, and all building material or other debris shall be kept at least four feet from any tree. All persons desiring to make such excavation or construction shall deposit with the city treasurer a sum sufficient to cover the cost of inspection and any damage which may result therefrom, provided that such charge shall not be less than \$2.00 in any case.

(Ord. No. 137, § 5, 9-19-56; Code 1968, § 20-9)

Sec. 90-10. Trimming of growths on private property.

Every owner of any tree, shrub or plant overhanging the streets or rights-of-way within the city shall trim the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of 16 feet above the surface of the street, alley, or rights-of-way. Any growth from trees, shrubs, or plants shall be maintained to keep a cleared distance of 12 inches from a vertical plane drawn from the edge, and an overhead cleared distance of nine feet from any sidewalk or pathway dedicated to the use of pedestrian traffic. 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 trim any tree or shrub on private property when it interferes with the visibility, or line of sight at intersections, or any traffic control device or sign, or interferes with any public utility wires or equipment necessary to serve police or fire communication systems or street lighting or traffic control systems, such trimming to be confined to the area immediately above the rights-of-way and/or the area that the police chief or traffic engineer determines to be a sight line problem.

In case any person shall refuse or neglect to comply with the provisions of this article after receipt of a seven-day courtesy violation notice, a city code official shall serve, personally or by certified mail with return receipt requested, a copy of this article, together with a notice to the owner, possessor or occupier of land to comply with this section herein enumerated within a period of five days from and after service of such notice.

If after this time compliance is not obtained, the City Superintendent shall authorize the Director of the D.P.W. to enter upon the land and cut down and dispose of said growth and the City Superintendent shall keep accurate account of the cost of so doing and shall make a report in writing signed by him showing the date when cut down and disposed of, the names of the occupier, possessor, owner or person having charge of the lands and the cost of cutting down and disposing of the growth, and shall turn such statement over to the City Treasurer. The cost thereof shall be a lien on the property and added to the taxes assessed against the property as a special assessment and collected the same as other taxes.

(Ord. No. 137, § 6, 9-19-56; Code 1968, § 20-10; Ord. No. 636, § 1, 12-4-00)

Sec. 90-11. Placing materials on public property.

No person shall place on public property any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree subject to the provisions of this chapter.

(Ord. No. 137, § 7, 9-19-56; Code 1968, § 20-11)

Sec. 90-12. Protection from gas leaks.

Gas pipes or mains within any public right-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. In the event a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired and the cost of the work, including the cost or removal and

the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.

(Ord. No. 137, § 8, 9-19-56; Code 1968, § 20-12)

Sec. 90-13. Damaging generally.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire or permit any fire, or the heat thereof, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree; provided, however, that this shall not prohibit the use of city approved chemical control of trees and brush growth. No electric wires or installation, or any other lines or wires shall be attached to any tree in any manner that shall cause damage thereto.

(Ord. No. 137, § 9, 9-19-56; Code 1968, § 20-13)

Sec. 90-14. Interfering with trimming or removal.

All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of any tree subject to this chapter, shall, after notice thereof by the city superintendent, promptly abate such interference in such a manner as shall permit the trimming or removal of any tree by the department of public works.

(Ord. No. 137, § 9, 9-19-56; Code 1968, § 20-14)

Sec. 90-15. When planting, removal may be done by city in public places.

The planting or removal of trees and shrubs in the public rights-of-way, parkways, parks and other public areas of the city may be done either upon resolution of the city council or petition of parties owning a majority of the lineal footage of the property fronting on the line of such street.

(Ord. No. 137, § 10, 9-19-56; Code 1968, § 20-15)

Sec. 90-16. Superintendent to recommend planting, removal; special assessments.

Whenever deemed necessary by the city superintendent to lay out and plant trees and shrubs upon any public rights-of-way within the city or to remove undesirable species of trees, other than those so specified in this article, it shall be the duty of the city superintendent to report such fact to the city council. Such planting or removal shall be deemed to be a public improvement. The cost thereof may be paid, in whole or in part, by levying and collecting special assessments upon property especially benefited thereby in accordance with the provisions in the charter governing special assessments.

(Ord. No. 137, § 11, 9-19-56; Code 1968, § 20-16)

Charter references: Special assessments, § 9.5.

Sec. 90-17. Spacing, location of trees.

(a) In all planting of shade trees in the rights-of-way, such trees shall be spaced not less than 50 feet apart, except that trees may be planted less than 50 feet from an existing tree in the rights-of-way, provided the existing tree has been approved for removal within a period of two years from the date of planting of the new tree, and except that in exceptional cases, any owner of a single lot may, in order to provide a shade or

ornamental tree in front of his lot, secure special permission from the department of public works to have a tree planted closer than 50 feet from an existing tree, but in no case shall such planting be within 30 feet of any existing tree on the rights-of-way.

(b) No tree shall be planted in planting strips between the curb and sidewalk less than 2 1/2 feet from the sidewalk; trees on private property adjacent to the sidewalk shall be planted not less than three feet therefrom. No trees shall be planted in planting strips where the distance between the back of the curb and the sidewalk is less than four feet, six inches in width. No trees shall be planted nearer to the intersection of any two or more streets than 25 feet from the point of intersection of two rights-of-way lines.

(Ord. No. 137, § 12, 9-19-56; Code 1968, § 20-17)

Sec. 90-18. Authority to remove undesirable trees, shrubs.

(a) The city superintendent is hereby authorized to direct the department of public works to remove any undesirable trees or shrubs growing on any rights-of-way, park or public place in the city, after approval of such removal by the parks and beautification commission.

(b) The city superintendent is hereby authorized to direct the department of public works to remove any trees or shrubs growing on any rights-of-way, park or public place in the city when such trees or shrubs are interfering with fire hydrants, sewers and water mains, visibility at street intersections, traffic control devices or construction affecting the public health and safety within rights-of-way.

(Ord. No. 137, §§ 15, 16, 9-19-56; Code 1968, § 20-18; Ord. No. 210, § 3, 6-2-69)

Sec. 90-19. Removal of trees--Dead, diseased.

All dead trees and trees afflicted with any fatal or communicable disease shall be removed by the department of public works with the approval of the city forester, or such other tree expert as the city superintendent shall deem appropriate.

(Ord. No. 137, § 13, 9-19-56; Code 1968, § 20-19; Ord. No. 210, § 4, 6-2-69; Ord. No. 607, § 1, 11-9-98)

Sec. 90-20. Same--At request of property owner.

(a) Living trees may be removed in accordance with the requirements of this chapter, when the owner of the property in front of which the tree is situated requests in writing the removal of such tree and the parks and beautification commission approves of such removal.

(b) Where an owner of property requests the removal of a tree the superintendent is authorized, in his discretion, to require as a condition precedent to granting of approval for such removal that such property owner make the removal in accordance with regulations established by the department of public works, assume all or any part of the costs of removing such tree, and also to further require that such tree be replaced at some other location in the immediate vicinity, by planting another tree of a type permitted under this chapter.

(Ord. No. 137, § 13, 9-19-56; Code 1968, § 20-20; Ord. No. 210, § 5, 6-2-69)

Sec. 90-21. Notice, hearing on removal of trees.

The abutting property owner shall be notified in the event of the intended removal of any living tree. In the event of an objection from the abutting property owners, the trees shall not be removed until after a public hearing has been held by the city council to consider its removal.

(Ord. No. 137, § 13, 9-19-56; Code 1968, § 20-21)

Sec. 90-22. Control, trimming by utilities.

The city clerk shall, upon request of any interested public utility, issue an annual permit, and shall annually thereafter renew such permit, granting permission to the public utility to chemically control and trim and keep trimmed all trees and shrubs intruding into the air space over, or growing within the confines of, the streets, alleys, parks, rights-of-way and public places of the city in such a manner as shall keep the overhead lines and equipment of the public utility safe and accessible, and clear of all tree growth which endangers or may endanger the overhead lines or equipment and the public health and safety. Such chemical control and trimming shall be done in accordance with approved practices and under the general direction of the superintendent. The permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. In the event of an emergency requiring immediate maintenance work on the overhead lines of the public utility, prior notice of commencing work under the permit shall not be required. The word "emergency" as used in this section, shall be defined to mean the occurrence or happening of an event which could not be expected or prevented by the exercise of reasonable care and foresight and which endangers or may endanger the overhead lines of the public utilities and the public health and safety.

(Ord. No. 137, § 14, 9-19-56; Code 1968, § 20-22)

Secs. 90-23--90-45. Reserved.