

ORDINANCE NO. 916

AN ORDINANCE ESTABLISHING AND EMPOWERING THE TREE BOARD OF THE CITY OF OSWEGO, LABETTE COUNTY, KANSAS.

Be it ordained by the City Council of the City of Oswego, Kansas.

Section 1. Definitions.

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

Park trees: "Park trees" are herein defined as trees, shrubs bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Section 2. Creation and Establishment of a City Tree Board. There is hereby created and established a City Tree Board for the City of Oswego, Kansas, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the Council.

Section 3. Term of Office.

The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 4. Compensation.

Members of the Board shall serve without compensation.

Section 5. Duties and Responsibilities.

It shall be the responsibility of the Board to study, investigate, council 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 plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Oswego, Kansas. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

Section 6. Operation.

The Board 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.

Section 7. Street Tree Species to be Planted.

The attached list, developed by the Kansas Department of Forestry, and recorded as "Exhibit A" constitutes the official Street Tree species for Oswego, Kansas. No species other than those included in this list may be planted as Street Trees without written permission of the City Tree Board.

Section 8. Spacing.

The spacing of Street Trees will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect.

Section 9. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs or curblines and sidewalk will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 4 feet; Medium Trees, 6 feet; and Large trees, 8 feet.

Section 10. Distance from Street Corners and Fireplugs.

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 10 feet of any fireplug.

Section 11. Utilities.

No street Trees other than those species listed as Small Trees in Section 7 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Section 12. Public Tree 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 and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City 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 sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

Section 13. 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 three inches in diameter within the tree's crown to such a degree so as 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 ordinance at the determination of the City Tree Board.

#### Section 14. Pruning, Corner Clearance.

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 (8') above the surface of the street or sidewalk. said 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.

#### Section 15. Dead or Diseased Tree Removal on Private Property.

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, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

#### Section 16. Interference with city Tree Board.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

#### Section 17. Arborists License

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors.

#### Section 18. Review by City Council.

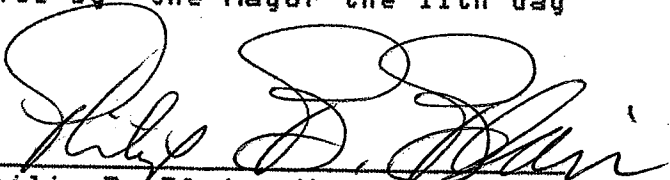
The City council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the city tree Board to the City council which may hear the matter and make final decision.

Section 19. Penalty.

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$100.

Section 20. This ordinance shall be in force and take effect upon its publication in the official city newspaper.

Passed by the council and approved by the Mayor the 11th day of December, 1989.

  
Philip B. Blair, Mayor

Attest:

  
Cheri R. Hollingsworth, City Clerk

(SEAL)