

ORDINANCE NO. 885

AN ORDINANCE ESTABLISHING A TREE BOARD FOR THE CITY OF OBERLIN, KANSAS, THE DUTIES AND RESPONSIBILITIES OF ITS MEMBERS, TERMS OF OFFICE, REGULATIONS REGARDING PLANTING OF TREES; REGULATING ARBORISTS, PROVIDING FOR LICENSE; PENALTIES REVIEW; REPEALING ORDINANCES IN CONFLICT HEREWITH.

Be It Ordained by the City Council of the City of Oberlin, 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 with 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 Oberlin, Kansas, which shall consist of five (5) 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 (3) 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, advise and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. 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 Oberlin, Kansas.

The City of Oberlin, or its Agent, shall be responsible for the planting, pruning, and removal of all trees located within the parks of the City. The City Tree Board shall oversee the planting and removal of all trees, bushes and shrubs located within the street rights-of-way, easements and alleys of the city. The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spray, plant or remove trees, shrubs and bushes in that part of the street abutting his land not used for public travel. A street tree permit shall be required when the owner of property intends to plant and/or remove trees, shrubs and bushes within street rights-of-way, easements and alleys. The permit may be obtained from the City Office.

The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or 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. A list of preferred and acceptable trees shall be provided by the tree board in the Oberlin Tree Policy Guidelines. All trees planted within street rights-of-way must be from the approved list, or be approved by the tree board.

Section 8. Spacing. The spacing of street trees will be in accordance with the three species size classes listed in the approved street trees of the Oberlin Tree Policy Guidelines, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet.

Section 9. Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in the approved street trees of the Oberlin Tree Policy Guidelines, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 4 feet; Medium Trees, 5 feet; and Large Trees, 6 feet.

Section 10. Distance from Street Corners and Fireplugs. No street trees, shrubs or bushes shall be planted closer than 20 feet of any street corner on a 20 mph street, 30 feet of any street corner on a 30 mph street, and so forth, measured from the point of nearest intersecting curbs or curblines.

No Street Tree shall be planted closer than 10 feet to any fireplug.

Section 11. Utilities. No Street Trees, other than those species listed as Small Trees in the approved street trees of the Oberlin Tree Policy Guidelines may be planted under or within 20 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. Medium Trees may be planted no closer than 20 lateral feet of any overhead utility wire, and large trees may be planted no closer than 50 lateral feet.

Section 12. Public Tree Care. The City shall have the right to plant, trim, spray, preserve 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 safety when servicing City utilities or to preserve 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 line, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

Section 13. Trimming; Corner Clearance. Every owner of any tree over-hanging any street or right-of-way within the City shall be responsible to trim 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 twelve feet (12) above the surface of the street or right-of-way. 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 trim 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, such trimming to be confined to the area immediately above the right-of way.

Section 14. 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 constitutes 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 owner's property tax notice.

Section 15. 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 his agents, or servants, 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 16. Arborists License and Bond. It shall be unlawful for any person or firm to engage in the business or occupation of trimming, pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be \$25.00 annually in advance; provided, however, that no license fee shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amount of \$25,000 for bodily injury and \$5,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 17. 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 who may hear the matter and make final decision.

Section 18. 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 \$500.00.

Section 19. Repealing. All ordinance or parts of ordinances in conflict herewith are hereby repealed.

Passed by the Council and approved by the Mayor on this 16th day of June, 2016.



Council President

John W. Wells
Acting Mayor

Attest:

City Clerk

Sandy Rush