

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADDING ARTICLE X TO CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN, OKLAHOMA, ESTABLISHING REGULATIONS TO PROTECT HEALTHY AND SIGNIFICANT TREES IN THE PUBLIC STREETS AND RIGHTS OF WAY; PROVIDING FOR DEFINITIONS; PROVIDING PROVISIONS FOR APPLICATIONS TO REMOVE TREES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 1. That Article X shall be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and titled as follows:

ARTICLE X. TREE PROTECTION.

- § 2. That Section 10-1001 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1001 General Provisions.

A. Purpose.

- 1) Establish regulations to maintain and enhance a positive image and a livable city, encourage the preservation of mature trees and to protect trees during construction, contribute to the long-term viability of existing trees, and control the removal of trees when necessary; and
- 2) Establish regulations to protect healthy and significant trees and to incentivize replacement of trees when removed by necessity or choice, with regard to the rights of the property Owners and occupants.
- 3) The regulations are designed with the following objectives in mind: eliminating unnecessary removal of healthy trees; promoting the preservation and conservation of trees throughout the City; recognizing the benefits of trees in the urban environment; encouraging the planting and preservation of quality trees that are native to or flourish in the region; enhancing the beauty and aesthetic of the City; enhancing property values and protecting investment; and encouraging the preservation of large or historic trees that cannot be quickly replaced.
- 4) The regulations outlined below are intended to address those trees (“Street Trees”) living in the platted public right of way, meaning the area between the public Sidewalk and the publicly dedicated Street,

the public easement, as well as those trees designated as historic according to the regulations as defined in Section 12 of this document.

- 5) The regulations are intended to address platted and developed properties throughout the Defined Area.
- 6) The regulations are not intended to and cannot supersede existing state laws or other existing city ordinances, utility easements, or restrictions previously attached to the land.

B. *Definitions.* The following words and phrases when used in this article, shall, for the purposes of this article, have the meanings ascribed to them in this subsection, except where the context otherwise requires:

- 1) *Alter* means to cut, girdle, prune, destroy, remove, or in any manner injure a large tree.
- 2) *City* means the City of Norman.
- 3) *City Council* means the City Council of the City of Norman.
- 4) *Dangerous Tree* means any tree, large shrub or part thereof, living or Dead, which the Forester(s) finds is in such a condition and is located in such a place as to constitute a danger to Persons or property in the vicinity of the tree.
- 5) *DBH* means tree diameter at breast height, which is measured at 4.5 feet above the ground.
- 6) *Dead Tree* means any tree or branch which the Forester(s) determines has no living part.
- 7) *Defined Area* means the area east of West 48th Street, south of Franklin Road, and west of East 36th Street continuing south to city limits.
- 8) *Diseased or Infected Tree* means any tree or large shrub with an uncontrolled presence of tree or plant disease or infestation of insects, pests, or larvae, which the Forester(s) finds constitutes a hazard to other trees in the community.
- 9) *Forester* means the Forester for the City of Norman and his or her designees; who is the sole representative for purposes of this ordinance.

- 10) *Owner* means the owner of the property.
- 11) *Person* means individuals, groups, organizations, associations, partnerships, firms, corporations, and limited liability companies.
- 12) *Sidewalk* means the portion of the publicly dedicated Street between the public Street curb line or the paved edge of the public Street (if no curb) and the adjacent private platted property lines, intended for use by pedestrians.
- 13) *Street* means the entire area between private platted property lines which is publicly dedicated and maintained as street surface, when any part of the area is open to use by the public for purposes of vehicular travel. Such term shall include all publicly dedicated highways, avenues, boulevards, traffic ways, or any other public way for vehicular travel by whatever name.
- 14) *Street Tree* means a tree 6" DBH or more, which is between the publicly dedicated Sidewalk and the publicly dedicated Street surface or where there is no Sidewalk, then within six (6) feet of the edge of the Street surface.

§ 3. That Section 10-1002 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1002 City Forester.

- A. The City Forester(s) and/or their designated representatives shall be responsible for the enforcement of all provisions of this Code. In the event there is not a City Forester, the Director of Parks and Recreation shall designate the appropriate personnel to enforce the provisions of this Article.
- B. The Forester(s) is hereby authorized to make such investigations and issue notices, orders, and directions as are necessary for the enforcement of this chapter.

§ 4. That Section 10-1003 be added to Chapter 10 of the Code of the City of Norman, Oklahoma and read as follows:

Sec. 10-1003 Tree Alteration.

- A. It shall be unlawful for any Person to intentionally Alter any Street Tree standing or growing, wholly or in part, in or on any Street right of way without first obtaining the permission of the Forester.

B. The provisions of subsection (A) shall not apply to:

- 1) The removal of branches less than four (4) inches in diameter which are required to be removed to maintain seven (7) feet of clearance above Sidewalks and fourteen (14) feet of clearance above Streets: or
- 2) The removal of water sprouts and suckers; or
- 3) Circumstances where Street Trees may need to be removed or Altered in order to comply with other sections of the City Code, such as but not limited to: requirements to create, develop, or maintain adequate site triangles for safe passage of vehicular traffic; locations of curb cuts and Street access points as may be required for safe distances between such access points along public Streets; locations of storm water facilities and improvements as may be necessary for the adequate conveyance of storm water; locations of underground utilities in utility easements intended for such facilities; and all requirements of the City of Norman's engineering design guidelines; or
- 4) Removal of Dangerous Trees or Diseased or Infected Trees as defined herein.
- 5) Circumstances where Street Trees may need to be removed or Altered in order to comply with state and federal regulations pertaining to rights of way and vegetation management; or
- 6) Unplatted and undeveloped properties.

§ 5. That Section 10-1004 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1004 Applications to Alter Trees.

- A. Any Person desiring to Alter any Street Tree, or any branch, root or part thereof, standing or growing, wholly or in part, in any publicly dedicated Street or public right of way, not specifically exempted in Section 10-1003(B), must first request permission from the Forester(s) to do so. The Forester(s) shall determine if a Street Tree must be Altered to eliminate damage to existing buildings, foundations, utilities, or pavement surfaces or for some other good reason and shall grant permission where appropriate.
- B. Street Trees: If, after receipt of a complaint or after observing the removal of a Street Tree, the Forester, based on his/her investigation, believes that a Street Tree was removed in violation of this Article, then the Forester shall attempt to make contact with the person or entity allegedly removing the tree. Removal of a Street Trees in violation of Section 10-1003 may be subject to an administrative fine of

up to fifty dollars (\$50.00) per inch DBH. The total administrative fine assessed shall not exceed \$2,000.

- 1) Remediation. In lieu of payment of all or a portion thereof of an administrative fine, a Person in violation of this section may plant a replacement tree or trees, in excess of (1) one inch DBH, on the impacted property to reduce the fine. The fine reduction may exceed the price of the fine, but no refunds will be awarded.

- a. 1 tree = \$200.00 credit

- b. 2 trees = \$500.00 credit

- c. 3 trees = \$900.00 credit

- d. 4 trees = \$1400.00 credit

- e. 5 trees = \$2000.00 credit

- 2) All replacement trees shall be replanted within six (6) months. The Forester(s) shall approve the replacement trees and planting locations. Should the replacement tree die within two (2) years, it must be replaced.

C. All funds collected by the City in conjunction with Section 10-1004(B) shall be deposited into a special fund and utilized for the sole purpose of replanting trees in the public right of way, in the same vicinity as the removed trees.

D. In the event of a storm, freeze, wind event, or other environmental event resulting in damage to trees, the Owner will be allowed to remove broken or damaged branches in the right of way without permission from the Forester. Disposal of debris generated by Owner will be the responsibility of the Owner. Permission from the Forester will be required for the removal of an entire tree.

§ 6. That Section 10-1005 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1005 Tree Nuisances Declared.

A. All Dead or broken trees, or branches thereof, within the Defined Area of the City, which have become or are likely to become dangerous to the public safety, or to Persons or property within the vicinity of the tree, are hereby declared to be a public nuisance.

B. Dangerous Trees within the Defined Area of the City are declared to be a public nuisance.

- § 7. That Section 10-1006 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec 10-1006 Duty of Private Property Owners to Abate.

It shall be the duty of the Owners of any private property, upon which any public nuisance is located, to cause the same to be promptly abated.

- § 8. That Section 10-1007 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1007 Affixing, Fastening, or Attaching.

No Person shall affix, fasten, or attach any notice, advertisement, placard, wire, cable, or any other object to a tree growing, wholly or in part, in or on any public Street, public rights of way, park, or public property without the Forester's written consent.

- § 9. That Section 10-1008 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1008 Placing Stones, Concrete, or Other Substances Near a Tree Trunk.

It shall be unlawful for any Person to place or maintain upon the ground any stone, concrete, or other substance which shall impede the free passage of water and air to the roots of any growing tree within the public Streets, public rights of way, public parks, or other property belonging to the City, without leaving an open space of ground outside the trunk of such a tree in an area not less than 16 square feet, without first having secured the permission of the Forester(s) to do so.

- § 10. That Section 10-1009 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1009 Guards or Devices to Prevent Injury Required During Construction or Building Renovation.

During the activity of permitted construction or major renovation of any building in the City involving the use of heavy equipment, heavy trucks, roll off dumpsters, or any other activity that could injure Street Trees, the Owner shall place or cause to be placed such guards or devices around all Street Trees within the publicly dedicated rights of way, as shall be necessary to prevent injury to such trees. The guards must be reasonably placed in order to prevent injury to the tree, no less than a 4 x 4 foot area around the tree.

- § 11. That Section 10-1010 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1010 Abutting Property on Streets and Avenues to keep Pruned at Minimum Height.

It shall be the duty of all Persons owning or controlling any real estate abutting or adjoining any Street to prune the trees on their premises so that the limbs and undergrowth shall not hang or extend down over the Sidewalk or Street abutting such property less than seven (7) feet from the level of the Sidewalk or fourteen (14) feet from such Street.

- § 12. That Section 10-1011 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1011 Penalties.

Any Owner violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars (\$500.00) per offense. An Owner shall not be subjected to both a penalty and an administrative fine.

- § 13. That Section 10-1012 be added to Chapter 10 of the Code of the City of Norman, Oklahoma, and read as follows:

Sec. 10-1012 Historic Tree Designation.

A. Owners may nominate trees on their own private property, outside of the public right-of-way, as historic trees, resulting in the protections outlined below.

B. A historic tree shall include at least three of the following characteristics:

- 1) Trees with trunk diameters equal to or in excess of 36" DBH,
- 2) Excellent structure or unique structural character,
- 3) Excellent health,
- 4) High aesthetic appeal,
- 5) Good longevity, and
- 6) Historical Importance.

- C. To nominate a tree as historic, a Person must complete the forms provided by the Forester(s) and provide rationale for the designation meeting the guidelines established above. After consideration and recommendation of the historic designation by the Forester(s), the designation shall proceed to the Tree Board for final approval.
- D. Once a tree is deemed historic, all provisions outlined above, including the limitations on Alteration outlined in Section 4, shall apply to the tree in perpetuity, regardless of its location except as otherwise provided herein.
- E. Once deemed historic, the Owner shall place deed restrictions upon the tree in conjunction with Section 4, so as to inform future Owners of the status of the historic tree designation. The City shall be named a party to such deed restrictions and shall explicitly be empowered to release the restriction as provided herein.
- F. The Forester(s) may file a release of deed restriction to allow removal or Alteration of a historic tree after determining that the historic tree:
 - 1) Is Dead
 - 2) Is an imminent hazard to life or property, and the hazard cannot be mitigated without removing or Altering the tree
 - 3) Is located on a public right of way or easement
 - 4) Is a Diseased or Infected tree.

§ 14. That Section 10-1013 of Chapter 10 of the Code of the City of Norman, Oklahoma, shall be added to read as follows:

Sec. 10-1013 Appeals.

- A. An Owner who has been denied consent to remove a tree may make application for relief from portions of this article to the City Manager or his or her designee. Such appeal must be made within thirty (30) working days from the date of the Forester(s) determination and only after all issues relevant to the permit process have been determined. Upon receipt of the appeal, the City Manager will have ten working days to grant relief upon an adequate showing that undue hardship would be suffered if not granted.
- B. After having been denied relief by the City Manager as provided in (a) above, the Owner shall have the right of appeal to City Council. Such appeal shall be taken by filing with the City Clerk, within ten (10) working days after denial of relief by the City Manager, a written statement setting forth fully the

grounds for the appeal. After receipt of the written statement, the City Clerk shall schedule the appeal for hearing by the City Council on the next regular agenda. The Owner shall be notified of the time of the hearing at least seven (7) days prior to such hearing. Proper mailing to the address shown on the application shall be adequate notification. The decision and order of City Council on such appeal shall be final and conclusive.

§ 15. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance, except, that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day
of _____, 2019.

NOT ADOPTED this _____ day
of _____, 2019.

Mayor

Mayor

ATTEST:

City Clerk