

ORDINANCE NO. 2019-15

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE, TITLE IX GENERAL REGULATIONS, CHAPTER 92 TREES, SECTION 92.06 REMOVAL; SECTION 92.09 ACTS DECLARED NUISANCES; NOTICE, ABATEMENT; UNLAWFUL; AND SECTION 92.10 ENFORCEMENT; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Title IX General Regulations, Chapter 92 Trees, Section 92.06 Removal; Section 92.09 Acts declared nuisances; notice, abatement; unlawful; and Section 92.10 enforcement of the Municipal Code of Wayne, Nebraska, are hereby amended to read as follows:

§ 92.06 REMOVAL.

(A) The ~~Street Superintendent~~ **City Administrator** or his or her duly authorized agent shall remove any tree, hedge or bush and the like on the right-of-way, streets or alleys within the city which interferes with the making of improvements or with travel.
(2002 Code, § 86-37)

(B) Whenever the limbs or branches of any tree, hedge or bush and the like extend over sidewalks, streets or alleys contrary to the provisions of this code so as to interfere with the convenience of the public using the sidewalks, streets or alleys or whenever trees, hedges, bushes and the like have become diseased or damaged or whenever such trees, hedges, bushes and the like constitute a danger to the public or have been declared a nuisance, the ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent shall serve written notice to abate such nuisance upon the abutting owner, ordering the removal and abatement thereof as provided in § 92.10 of this code.
(2002 Code, § 86-38)
(Ord. 99-10, passed 9-28-1999; Ord. 2010-23, passed 10-5-2010)

§ 92.09 ACTS DECLARED NUISANCES; NOTICE, ABATEMENT; UNLAWFUL.

(A) It is declared a nuisance for any person who is required to maintain trees, hedges or bushes and the like on any property to allow or permit to stand upon the property any dead tree, hedge or bush and the like or dead part of a tree, hedge, bush, stump or any diseased or damaged tree, hedge or bush and the like or any diseased or damaged part of a tree, hedge or bush and the like or any healthy tree, hedge or bush and the like or to allow branches below 12 feet above the surface of the street or alley and below seven feet above the sidewalk when such trees, hedges or bushes and the like constitute a hazard to life and property or constitute a potential threat to other trees, hedges or bushes and the like within the city. Any such tree, hedge or bush and the like or part of a tree, hedge or bush and the like on public or private property, meeting the criteria stated in this section, may be declared to be a nuisance by the ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duty authorized agent.
(2002 Code, § 86-41)

(B) It is hereby declared unlawful:

(1) To permit any tree, bush or shrub or any portion thereof or any debris resulting from its removal to remain upon or in any street, alley or other public property later than one hour before sunset without placing sufficient lighted barricades to properly warn all users of such street, alley or other public property;

(2) To leave, allow to remain or abandon a felled tree or any portion thereof or any cut shrub or bush or any portion thereof upon, across or in any street, alley or other public thoroughfare or any public or private property of others. All such obstructions, together with all debris resulting from such cutting, shall forthwith be removed and the premises made broom-clean of all rubbish resulting from such operation without delay or interruption;

(3) As a normal practice, for any person or firm to top any 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 as to remove the normal canopy and disfigure the tree. Any tree which has been topped will be considered a nuisance. 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 division (B)(3) at the determination of the ~~Public Works Superintendent~~ **City Administrator**;

(4) To plant a tree or shrub closer than ten feet to any fire hydrant;

(5) To plant a tree other than a small species of tree having a mature height of 15 feet or less within 20 lateral feet of any overhead utility wire, or above or within five lateral feet of any underground water line, sewer line, transmission line or other utility;

(6) For any person required to maintain trees or shrubs on property pursuant to this chapter to allow any limbs, branches or foliage to interfere with the necessary visibility of any traffic-control device. The city may without prior notice remove or trim any limbs, branches or foliage interfering with the visibility of a traffic-control device;

(7) To plant evergreen trees on the terrace;

(8) To plant trees within 20 feet of a stop sign or 15 feet from a street light;

(9) To plant trees on the terrace where the space is eight feet or less. Exceptions may be made in business districts; and

(10) To plant or maintain shrubs or other vegetation having a height of 30 inches or more within one foot of a public sidewalk or the back of the curb of any street.

(2002 Code, § 86-42)

(Ord. 99-10, passed 9-28-1999; Ord. 2010-23, passed 10-5-2010) Penalty, see § 92.99

§ 92.10 ENFORCEMENT.

(A) The proper execution and enforcement of the provisions of this chapter are made the duty of the ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent. To that end, the ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent may enter upon public or private property at all reasonable hours for purposes of inspecting trees, hedges or bushes and the like thereon. It shall be unlawful for any person to prevent the

~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent from entering on public or private property for purposes of carrying out the duties under this chapter, or to interfere with the ~~Superintendent of Public Works and Utilities~~ **City Administrator** in the lawful performance of the duties under the provisions of this chapter.

(B) The ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent shall notify the person required to maintain property pursuant to this chapter of any nuisance as described in this chapter. The notice shall require the owner to abate such nuisance within 30 days from the date thereof.

(C) The ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent shall have the power and is authorized and instructed, after the expiration of 30 days from the date of notice sent by certified mail or personal service, to determine if compliance to abate a nuisance has been attained. If compliance has not been made, the city shall abate such nuisance by causing such trees, hedges or bushes and the like, which are deemed to be a nuisance under this chapter to be removed or pruned at the expense of the owner of the land whereon the trees, hedges or bushes and the like stand or the terrace abutting thereto. If the owner fails to reimburse the city after being billed, the cost of such abatement together with a \$30 administrative fee shall be levied, equalized and assessed as are other special assessments.

(D) The ~~Superintendent of Public Works and Utilities~~ **City Administrator** or his or her duly authorized agent may order any person required to maintain property pursuant to this chapter to perform such maintenance as is required to abate interference with any public utility from any tree, hedge or bush and the like that is located on such property or the terrace, alley or dedicated right-of-way.

(E) In the case of a community disaster or emergency as declared by the Council, the city may aid the property owner in the removal, trimming and/or cleanup of trees, hedges, bushes and the like within the section of the street so abutting dedicated as a right-of-way.
(2002 Code, § 86-43) (Ord. 99-10, passed 9-28-1999; Ord. 2010-23, passed 10-5-2010)

Section 2. Any and all provisions of the Wayne Municipal Code in conflict with this Ordinance are hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval and publication according to law.

PASSED AND APPROVED this 3rd day of September, 2019.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk