

ORDINANCE NO. 2010-23

AN ORDINANCE AMENDING THE WAYNE MUNICIPAL CODE. CHAPTER 86, ARTICLE III, SECTIONS 86-37 REMOVAL; 86-38 PROPERTY OWNER REMOVAL; 86-39 REQUIRED TRIMMING; 86-41 ACTS DECLARED NUISANCES; NOTICE; ABATEMENT; AND 86-43 ENFORCEMENT; TO PROVIDE FOR THE REPEAL OF CONFLICTING SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE

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

Section 1. That Chapter 86, Article III, Sections 86-37, 86-38, 86-39, 86-41 and 86-43 of the Wayne Municipal Code are hereby amended to read as follows:

Sec. 86-37. Removal

The **Superintendent of Public Works & Utilities or his duly authorized agent** shall remove any tree, **hedge, or bush, etc.**, on the right-of-way, streets **or alleys** within the city which interferes with the making of improvements or with travel.

Sec. 86-38. Property owner removal

Whenever the limbs or branches of any tree, **hedge, or bush, etc.**, 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, or bushes, etc.**, have become diseased or damaged or whenever such trees, **hedges, bushes, etc.**, constitute a danger to the public or have been declared a nuisance, the **Superintendent of Public Works & Utilities or his duly authorized agent** shall serve written notice to abate such nuisance upon the abutting owner, ordering the removal and abatement thereof as provided in section 86-43.

Sec. 86-39. Required trimming

The owner or agent of the abutting property shall keep the trees, **hedges, or bushes, etc.**, on or overhanging the street **or alley** trimmed so that all branches shall be at least 12 feet above the surface of the street **or alley** and seven feet above the sidewalks; however, the city reserves the right to trim and maintain a tree, **hedge, or bush, etc.**, maintenance program.

Sec. 86-41. Acts declared nuisances; notice; abatement

It is declared a nuisance for any person who is required to maintain trees, **hedges, or bushes, etc.**, on any property to allow or permit to stand upon the property any dead tree, **hedge, or bush, etc.**, or dead part of a tree, **hedge, bush**, stump, or any diseased or damaged tree, **hedge, or bush, etc.**, or any diseased or damaged part of a tree, **hedge, or bush, etc.**, or any healthy tree, **hedge, or bush, etc.**, 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, etc.**, constitute a hazard to life and property or constitute a potential threat to other trees, **hedges, or bushes, etc.**, within the city. Any such tree,

hedge, or bush, etc., or part of a tree, **hedge, or bush, etc.,** 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 & Utilities or his duly authorized agent.**

Sec. 86-43. Enforcement

- (a) The proper execution and enforcement of the provisions of this article are made the duty of the **Superintendent of Public Works & Utilities or his duly authorized agent.** To that end, the **Superintendent of Public Works & Utilities or his duly authorized agent** may enter upon public or private property at all reasonable hours for purposes of inspecting trees, **hedges, or bushes, etc.,** thereon. It shall be unlawful for any person to prevent the **Superintendent of Public Works & Utilities or his duly authorized agent** from entering on public or private property for purposes of carrying out the duties under this article, or to interfere with the **Superintendent of Public Works & Utilities** in the lawful performance of the duties under the provisions of this article.
- (b) The **Superintendent of Public Works & Utilities or his duly authorized agent** shall notify the person required to maintain property pursuant to this article of any nuisance as described in this article. The notice shall require the owner to abate such nuisance within 30 days from the date thereof.
- (c) The **Superintendent of Public Works & Utilities or his 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, etc.,** ~~to shrubs~~ which are deemed to be a nuisance under this article to be removed or pruned at the expense of the owner of the land whereon the trees, **hedges, or bushes, etc.,** ~~and shrubs~~ 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 \$30.00 administrative fee shall be levied, equalized, and assessed as are other special assessments.
- (d) The **Superintendent of Public Works & Utilities or his duly authorized agent** may order any person required to maintain property pursuant to this article to perform such maintenance as is required to abate interference with any public utility from any tree, **hedge, or bush, etc.,** ~~or shrub~~ 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, etc.,** ~~and shrubs~~ within the section of the street **or alley** so abutting dedicated as a right-of-way.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after the passage, approval, and publication as provided by law.

PASSED AND APPROVED this 5th day of October, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk