

ORDINANCE NO. 86-48

AN ORDINANCE AMENDING THE ROGERS CODE BY ADDING ARTICLE VIII In CHAPTER 51, CREATING A TREE BOARD, AUTHORIZING A TREE PLAN, PROVIDING FOR ENFORCEMENT THEREOF, AND FOR OTHER PURPOSES.

WHEREAS it is found by the City Council of Rogers, Arkansas, that trees are a beneficial resource, the preservation and proliferation and regulation of which will serve a public interest in esthetics, safety and economics; and

WHEREAS trees growing in certain locations will interfere with power, water, sewer and other utility lines or services; and vision; and

WHEREAS the continued presence of diseased, dead and decaying trees constituted a hazard to other trees as well as the citizens of Rogers, Arkansas,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS

SEC. 1. That the Rogers Code is hereby amended by adding a Article VII of Chapter 51 which shall read as follows:

CHAPTER 51 - ARTICLE VII. TREES

Sec. 51-160. Short Title

This ordinance shall be known and may be cited as the "Tree Code of the City of Rogers, Arkansas."

Sec. 51-161. Definitions:

For the purposes of this article the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" means mandatory and not merely directory.

(A) "City" - shall be the City of Rogers, Arkansas.

(B) "Person" - shall be any Individual, firm partnership, association, corporation, company, or organization of any kind.

(C) "Tree" - shall be any woody plant which normally grows to be ten (10) feet tall or taller, regardless of the size of the plant when it is first put in the ground. "Tree" - can also be construed to encompass plants known commonly as shrubs.

(D) "Street Trees" - shall be trees lying within the right-of-way of any street, avenue or public thoroughfare within the City.

(E) "Park Trees" - shall be trees in the specific named parks of the City; all areas owned by the City as public property and any lands to which the public has access as a park.

(F) "Tree Board" or "Board" - shall refer to that group of persons constituting said board, qualified and selected as provided in subsection 3 hereof.

(G) "Tree Plan" or "Master Tree Plan" - shall mean that body of regulations and layout of development of trees within the City provided for in Sec. 51-163 hereof.

Sec. 51-162. Tree Board

There is hereby created and established the Rogers Tree Board for the City which shall consist of three (3) members, who are members of the Rogers Chamber of Commerce who shall be appointed by the Mayor and confirmed by majority vote of the City Council. In the event that a vacancy shall occur during the term of any member, a successor shall be chosen for the unexpired portion of the term by the same procedure.

The term of the members shall be three (3) years. The first member of the board shall have a term of one (1) year, the second member of the board shall have a term of two (2) years, and the third member of the board shall have a term of three (3) years, and the successors of each shall serve three (3) years thereafter.

A member of the Arkansas Forestry Commission, the Mayor and the Planning Authority shall be ex-officio, non-voting members of the Board.

Sec. 51-163. Tree Board, Duties, and Responsibilities.

It shall be the duty and responsibility of the Board to

study, investigate, develop, update and oversee the administration of a written plan for the establishment of species and nomenclature, proper care, preservation, pruning, planting, replanting, removal, disposition spraying or treatment of trees and shrubs in parks, along streets and in other public areas. Such plan or amendments to the plan will be presented to the City Council and upon their approval and acceptance shall constitute the official Comprehensive Tree Plan for the City. The Board, when requested by the City Council, shall consider, investigate, make findings, report and make recommendations upon any special matter or question coming within the scope of its work.

See. 51-164. Operation of the Tree Board

The Board shall choose its own officers, make its own rules and regulations within the scope of its authority and keep a journal of its proceedings. A simple majority shall be a quorum for the transaction of business.

Sec. 51-165. Additional Activities of the Tree Board

The Tree Board shall carry on the following activities:

(a) Develop standards of tree maintenance and other specifications to foster the City's tree population, protect persons and property against injury, provide for safe and efficient passage of persons, vehicles and utilities through recognized rights-of-way;

(b) Assist the community and its officials In disseminating information about protection, maintenance and improvement of the City's tree population;

(c) Propose such legislation as may be necessary and practicable to pursue the ends for which the Tree Board was created;

(d) Develop tree-planting systems in conjunction with other public and private agencies;

(e) Educate the public concerning tree maintenance;

(f) Provide technical advice and assistance to developers, builders, contractors, etc., in the selection and protection of naturally occurring trees, during the development of wooded areas; and

(g) Communicate with such professional and technical services as it may see fit, within the scope of this ordinance.

Sec. 51-166. Tree Plan - Statement of Policy.

(a) This tree plan shall apply to all street trees and park trees in the City and will apply to trees presently in existence and trees to be planted in the future.

(b) It is the policy of the City to preserve the existing trees shown on the tree plan. Only the trees that are considered desirable to be preserved are shown on the plan. The City shall, to the great extent possible, preserve the trees on public land shown on the tree plan. The City will encourage owner of trees on private land to preserve said trees to the greatest extent possible. If any tree shown on the tree plan on public land should die, the City shall replace the tree either with the same specie or variety or another specie or variety of tree approved for use in the City under the tree plan. The replacement tree may be younger and smaller than the original tree.

(c) Wherever the tree plan shows a proposed tree on public land it is the policy of the City to plant a tree at that location. No tree will be planted at such time and location that it will be destroyed in the course of anticipated future construction. Trees shown on a City plan as trees to be added to public lands will be planted from time to time as funds are available.

(d) Owners of private lands being developed as new subdivisions will provide trees shown on the tree plan, and in all other areas to be dedicated to the City as public streets or other public lands. The subdivider will be encouraged by the City to provide the trees on private lands in the subdivision in accordance with the tree plan.

(e) All stumps of street and parks trees shall be removed below the surface of the ground so that the tops of said stumps do not project above the surface of the ground.

(f) Street and Park trees shall become public property of the City. The City shall prune, maintain, treat and remove said trees as may be necessary to insure public safety or preserve or enhance the symmetry and beauty of the City.

(g) It shall be unlawful as a normal practice for any person or City department to top any tree on public property. Topping is defined as the cutting back of limbs to stubs larger than three (3) 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 trimming or pruning practices are impractical, may be exempted from this section.

Sec. 51-167. Tree Species

Tree species to be planted In accordance with the plan will be determined by the Board. Placement of trees will be determined by the Board within the limitations of this ordinance.

Sec. 51-168. Spacing of Trees.

Spacing of trees to be planted will be with the guidance of the Board:

- (a) trees less than twenty (20) feet tall shall be spaced no less than or more than thirty (30) feet apart;
- (b) trees thirty (30) to fifty (50) feet tall shall be spaced no less than or more than forty (40) feet apart; and
- (c) trees fifty (50) feet tall or taller shall be spaced no less than or more than fifty (50) feet apart.
- (d) For good cause shown, exceptions may be made when approved by the Board.

Sec. 51-169. Distance from Curbs and Sidewalks.

The distance a tree may be planted from curbs, curb lines and sidewalks will be in accordance with the tree species classes listed in section 51-167 of this ordinance. No trees may be planted closer to any curb or sidewalk than the following:

- (a) trees twenty (20) feet tall or less (smaller trees) shall be at least two (2) feet from any curb or sidewalk;
- (b) trees thirty (30) to fifty (50) feet tall (medium trees) shall be at least three (3) feet from any curb or sidewalk; and

(c) trees fifty (50) feet tall or taller shall be at least four (4) feet from any curb or sidewalk.

(d) provided, that no branches, limbs, or leaves shall remain within ten feet of the street property line at a height of less than 8 feet above the roadway elevation.

Sec. 51-170. Distance from Street Corners and Fireplugs.

(a) No street tree shall be planted within twenty-five (25) feet of any street corner. A street corner shall be defined as the point where the curbs or curb lines intersect.

(b) No tree shall be planted within ten (10) feet of any fireplug.

Sec. 51-171. Utilities.

No street trees or park trees other than those of a maximum twenty (20) feet tall may be planted under or within ten (10) lateral feet of any overhead utility wire or over or within five (5) lateral feet of any underground waterline, sewer line, transmission line or other utility.

Sec. 51-172. Trees and Shrubs.

(a) It shall be unlawful to plant, remove or cut down any street tree or park tree.

(b) It shall be unlawful to attach any sign, advertisement or notice to any street tree or park tree in any public place.

(c) Any tree which overhangs any side walk, street or other public place in the City in such a way as to impede or interfere with traffic or travel on such public place or which obstructs any street lamp or interferes with the utility lines shall be trimmed by the owner of the abutting premises on which such trees grow so that the obstruction shall cease. Any limb of a tree which has become likely to fall on or across any public thoroughfare or place shall be removed by the owner of the premises on which such tree grows or stands.

(d) It shall be unlawful to attach any, wire, rope or cable to any street tree or park tree without a permit.

(e) City employees may cut, remove, or trim any street tree or park tree which may be diseased, damaged or which is not in compliance with this code provided such activity is within the scope of their employment.

(f) Any person, company, firm or corporation given the right to maintain poles and wires in the streets, alleys or other public places shall keep such wires and poles free from and away from any trees in such places so far as possible and shall keep all such trees properly trimmed so that no injury shall be done to the poles, wires, or trees by contact.

(g) Any person, firm or corporation maintaining any gas pipe shall keep such pipes free from leaks which would be injurious to street trees or park trees.

(h) In making excavations In street or other public places proper care shall be taken to avoid injury to the roots of any tree.

Sec. 51-173. Dead or Diseased Tree Removal on Private Property.

The City shall have the right to cause the removal of any dead or diseased tree or the treatment of any diseased tree 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 shall notify the owners of such trees in writing. Removal of such trees shall be done by the owners at their expense within sixty (60) days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the owner.

Sec.51-174. Interference with City Tree Responsibility

It shall be unlawful to interfere with the City, the Board or any of its agents, while engaged in and about the planting, spraying, treating, cultivating, pruning or removing of any trees, whether on City property or private property, as authorized in this ordinance:

Sec. 51-175. Review by the City Council.

The City Council shall have the right to review the conduct, acts and decisions of the Board. Any person may appeal from any ruling or order of the Board to the City Council who may hear the matter and make a final decision.

Sec. 51-176. Penalty and Jurisdiction.

Any person who violates any provision of this ordinance shall be, upon conviction, subject to a fine of not less than \$25.00 or more than \$500.00.

Jurisdiction over complaints or causes of actions arising under this ordinance shall be in the City Municipal Court.

Sec. 51-177. Severability.

The provisions of this ordinance are severable, and the invalidity of any part of this ordinance shall not affect the validity of the rest of the ordinance.

Passed: October 28, 1986.

Approved:

John W. Sampier, Jr.
John W. Sampier, Jr., Mayor

Attest:

Sandra Fearman
Sandra Fearman, City Clerk

10-14-86

Requested by: Mayor Sampier
Prepared by: R. Douglas Schrantz
City Attorney

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FILED
FOR RECORD
1 1986
CITY CLERK
The City of Rogers, Arkansas