

ORDINANCE 2008- 4

AN ORDINANCE OF THE CITY OF CLAREMORE CONCERNING THE MAINTENANCE OF TREES AND VEGETATION; MOWING OF PROPERTY; REMOVAL OF TREES DETRIMENTAL TO THE PUBLIC WELFARE AND ASSIGNING TO CITIZENS THE MAINTENANCE THEREOF; AMENDING THE CITY CODE BY ADDITION OF NEW SECTIONS; CREATING DUTY ON CITIZENS TO MAINTAIN VARIOUS VEGETATION IN FRONT, ON THE SIDE AND AT REAR OF CITIZEN'S PROPERTY IN A NON-DANGEROUS CONDITION AND SO THAT VEGETATION OR LANDSCAPING IS NOT A TRAFFIC HAZARD, AN OBSTRUCTION TO VIEW OR A HAZARD TO THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC; ESTABLISHING THE DUTY OF THE CODE ENFORCEMENT DEPARTMENT TO MONITOR AND ENFORCE COMPLIANCE HEREWITH; AND PROVIDING FOR FINES OR ABATEMENT OF SUCH HAZARDS BY THE CITY INCLUDING PROVIDING FOR SUMMARY ABATEMENT OF HAZARDS;

THE CITY COUNCIL OF THE CITY OF CLAREMORE HEREBY ORDAINS:

SECTION 1

PROPERTY OWNER MAINTENANCE RESPONSIBILITY AND DUTY TO PUBLIC:

- A. The owner of a lot abutting or fronting on or adjacent to any portion of a street or alley shall ensure the maintenance of any turf, trees, shrubs, hedges, fences or other landscaping along said street, to the centerline of the alley or within the street right-of-way adjacent to his or her property in such condition set forth in the City of Claremore Code of Ordinances and adopted Property Maintenance Code so that the turf, trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets, alleys, trails, paths, sidewalks and parking lots.
- B. For purposes of this part, maintenance of turf, trees, shrubs, hedges and other landscaping includes, but is not limited to the following: mowing, clearance and structural trimming, and removal of hazard trees, low branches, dead branches, decayed branches, broken branches, leaves and other debris.
- C. Property owners required by this ordinance to maintain turf, trees, shrubs, hedges, fences and other landscaping shall owe a duty to members of the public using public streets, trails, paths, sidewalks and parking lots to maintain such trees, shrubs, hedges or other landscaping in a safe and non-dangerous condition. If any property owner fails to maintain any adjacent turf, trees, shrubs, hedges or other landscaping in a non-dangerous condition as required by this ordinance, and any person suffers damage or injury to person or property, the property owner or person in possession shall be liable for all damages or injuries proximately caused by the failure of the owner or person in possession to maintain these areas.

D. The provisions of this section shall not apply to the trimming or clearing of limbs and branches within ten feet (10') of overhead electrical distribution lines as this shall be the responsibility of the City of Claremore or its designee.

SECTION 2

VEGETATION OBSTRUCTING PUBLIC WAYS:

The owner of every lot or parcel of land upon which any turf, trees, shrubs, or other vegetation that is growing adjacent to any street, sidewalk, trail, alley or public parking area shall mow and/or trim the same or cause the same to be mowed or trimmed, whenever it grows upon the property of the owner or in any lot or parcel of land lying between the owner's property and the pavement, traveled roadway or alley, so that the vegetation shall not obstruct the passage of light from any public light located in any street, alley, or public highway, to the adjacent street, path and sidewalk, and so that the vegetation shall not obstruct the free and convenient travel over and along the sidewalk, path, street or alley and the owner shall keep removed from the vegetation all dead, decayed or broken branches that overhang any such area, and remove any dead trees. For sidewalks, vegetation shall be trimmed to provide clearance of at least eight (8) feet above a sidewalks and paths.

Turf shall be maintained at a height no more than twelve inches (12") and trees and shrubs shall meet the criteria set forth in Chapter 102 in the City of Claremore Code of Ordinances.

SECTION 3

REMOVAL OF DEAD TREES AND SHRUBS:

The owner of every lot or parcel of land upon which any trees, shrubs, or plants are growing adjacent to any street, sidewalk, trail, alley or public parking area shall keep removed from such areas trees, shrubs or plants which are dead or determined to be detrimental to public welfare as defined by City of Claremore Code of Ordinances §102.09 and when any such trees are determined to be in such condition, property owner shall remove the same.

SECTION 4

OBSTRUCTIONS ON PRIVATE PROPERTY EFFECTING ROADWAY SIGHT ANGLE:

No owner of any premises on any corner or interior lot abutting upon a street or alley shall permit the existence of any hedge, shrub, tree, landscaping, mound of earth, fence or boulders which violates Section 212 of the City of Claremore Zoning Code.

SECTION 5

ENFORCEMENT AND ABATEMENT

Upon violation of this ordinance, at least ten days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the County Treasurer's office before the Code Enforcement Department takes action. The notice shall order the property owner to correct the violation as appropriate, and the notice shall further state that unless such work is performed within ten days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the County Clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of mailer. However, if the property owner cannot be located within ten days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in 11 O.S. §1-102, one time not less than ten days prior to any action by the municipality. If the Code Enforcement anticipates summary abatement of the violation in accordance with the provisions of this chapter, the notice, whether by certified mail, posting, shall state:

- (1) That any repeat violations on the owner's property occurring within six months after the correcting of the violation on the property pursuant to such notice may be summarily abated by the municipality;
- (2) That the costs of such abatement shall be assessed against the owner; and
- (3) That a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner.

Upon a finding that the condition of the property constitutes a detriment or hazard and that the property would be benefited by the removal of such conditions, the agents of the municipality are granted the right of entry on the property for the correction of the violation(s), and performance of the necessary duties as a governmental function of the municipality. Immediately following the work performed on the property, the Municipal Clerk shall file a notice of lien with the County Clerk's office describing the property and the work performed by the municipality, and stating that the municipality claims a lien on the property for the cleaning or mowing costs.

(E) The municipality shall determine the actual cost of such work and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The Municipal Clerk shall forward by mail to the property owner specified in division (A) of this section a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance and equipment required. If the cleaning and mowing are done on private contract basis, the contract shall be awarded to the lowest and best bidder.

(F) If payment is not made within 30 days from the date of the mailing of the statement, the Municipal Clerk shall forward a certified statement of the amount of the cost to the County Treasurer in which the property is located and the same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. Once certified by the County Treasurer, payment may only be made to the County Treasurer except as otherwise provided by this subchapter. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the County Treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the County Treasurer shall collect a fee of \$5 for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the County Treasurer and the municipality agree that the County Treasurer is unable to collect the assessment, the municipality may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the Municipal Clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien.

PASSED AND APPROVED the 3rd day of March, 2008



Attest

Nan Pope
NAN POPE, CITY CLERK

Brant Shallenburger
BRANT SHALLENBURGER,
MAYOR

APPROVED AS TO FORM AND LEGALITY:

Randall Elliott
RANDALL ELLIOTT,
CITY ATTORNEY
Date: 2/27/08