

ORDINANCE NO. 07-11-63

TREE ORDINANCE. AN ORDINANCE CREATING A NEW SECTION OF THE AMERICAN FORK CITY CODE REGULATING THE PROMOTION, PLACEMENT, MAINTENANCE, AND REMOVAL OF TREES WITHIN AMERICAN FORK CITY; ALSO PROVIDING A SAVINGS CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

PREAMBLE:

WHEREAS, Sections 2.04.080 and 2.08.020 of the American Fork City Code empower the City Council with the authority to enact ordinances that promote the health, safety, morals, convenience, order, prosperity, and general welfare of American Fork City;

WHEREAS, Title 10 Chapter 3 and Section 10-8-84 of the Utah Code Annotated authorize the City Council to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e. providing for the public safety, health, morals, welfare, peace and good order, comfort, and convenience of the City and its residents;

WHEREAS, the City Council has determined that in order to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the City, the American Fork City Code should be amended to include the provisions regulating the promotion, placement, maintenance, and removal of trees within American Fork City;

WHEREAS, trees are recognized as a valid asset to the City in that they create a more healthful and beautiful environment in which to live by providing oxygen, shade, and beauty;

WHEREAS, the welfare of the City will be promoted by regulating the promotion, placement, maintenance, and removal of trees in order to improve the aesthetic quality, wildlife habitat, and appearance of the City;

NOW THEREFORE, be it ordained by the City Council of American Fork City, that the American Fork City Code be amended as follows:

12.16.010 Definitions.

For the purposes of this section, the following words shall have the following meanings:

- A. **HERITAGE TREE:** A tree characterized by one or more of the following: having historical significance, being part of a historical site, or being of a rare or unusual species. The Tree Board and the City Forester shall work together in determining whether a tree should be designated as a Heritage Tree.

- B. **HAZARD TREE:** A tree which has been deemed by the City Forester as having the potential to cause physical damage or harm to human life, existing structures,

or utilities; including (but not limited to) any tree that is host to a communicable disease or destructive disease or other pestilence, a tree whose roots cause the surface of a public street, curb, gutter, or sidewalk to be up-heaved or otherwise disturbed, or any tree whose condition or location constitutes a danger to the health, safety, or well-being of the public.

- C. **PROTECTIVE MEASURES:** Any steps taken to safeguard the appearance, health, condition, or continued viability of a protected tree. Typical examples are: physical structures limiting access to a protected tree, pruning to allow access to a site, supplemental watering or fertilization, washing of canopy to remove dust or other residues, berms or grading to prevent erosion or silting in a protected root zone, signage indicating protected status of trees, or other methods deemed necessary at the time of authorization.
- D. **PUBLIC PROPERTY:** Any right-of-way, park, street, sidewalk, easement, or other ground owned by American Fork City.
- E. **PUBLIC TREE:** Any tree located on public property within American Fork City.
- F. **STREET TREE:** Any tree planted within any right-of-way or easement adjacent thereto.
- G. **TREE TOPPING:** The severe cutting back within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- H. **TREE MAINTENANCE:** Measures performed to promote the desirable growth and health of a tree, such as (but not limited to) watering, fertilization, mulching, weeding, pest management, pruning, and physical protection.

12.16.020 Creation and Establishment of the City Tree Advisory Board.

- A. The Beautification and Shade Tree Committee, as established by Resolution 95-04-15R, shall be the Tree Advisory Board for American Fork City. This committee shall act in an advisory capacity to the City Forester and shall focus its activities on those purposes specified in its charter.
- B. The City shall designate an employee to act as the City Forester.

12.16.030 Tree Planting, Maintenance, Protection, and Removal.

- A. The City of American Fork shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues,

lanes, squares, public grounds, public utilities or elsewhere, as may be necessary to insure public safety.

- B. When locating trees beneath power lines, trees should be placed far enough from the power lines that branching will not reach power lines at maturity.
- C. Debris resulting from tree maintenance or removal shall be removed from any street, sidewalk, right-of-way, or other public area by sunset of the same day, unless specifically authorized to do otherwise by the City Forester.
- D. No private person shall engage in the pruning, planting, spraying, removing, relocating or topping of Public Trees without the authorization of the City Forester
- E. No person shall willfully injure or destroy any Public Tree, including (but not limited to) piling or storing building materials or equipment on or near a Public Tree so as to cause injury, posting signs on Public Trees, pouring injurious matter on or around Public Trees including that which would shut off air, water, and light to Public Trees, or otherwise permitting animals to damage Public Trees.
- F. Public Trees may not overhang or encroach upon adjacent properties, sidewalks, streets, or public right-of-ways, nor shall they obstruct the view of traffic signs or street intersections. Public Trees under which pedestrians may walk shall be pruned clear of all branches between the ground and a height of seven (7) feet.
- G. Whenever a Public Tree is removed, the stump shall not project above the surface level of the ground, unless authorized to do otherwise by the City Forester
- H. The City may establish a fund to remove trees that are in conflict with sidewalks or power lines and replace them with trees compatible to the situation. The City may cooperate with utility companies and others to mitigate such conflicts. This program shall be administered by the City Forester.

12.16.040 Coordination Between Departments.

- A. City departments shall seek the counsel and recommendation of the City Forester prior to the removal or major alteration of any Public Tree unless the tree poses immediate danger to the public.
- B. Plans for all lighting, power transmission and distribution, sewer, irrigation, water, street and other public works projects shall be considered with reference to their effect upon Public Trees.

- C. Prior to planting or replacing any Public Tree, the department or employee shall first obtain written authorization from the City Forester. In the written authorization, the City Forester may indicate species and location of tree, its current or future impact on public or private utilities, and any other conditions or protective measures deemed necessary to ensure the well-being of the tree.

12.16.050 Hazard Trees.

- A. It shall be unlawful to keep or maintain a tree which is a danger or hazard to other trees or humans. The City Forester shall determine if the tree presents a danger or hazard. Where a Hazard Tree exists upon private property, the owner, landlord, tenant, or other person in control of the property on which such hazard exists, shall be deemed to be the cause thereof, and shall be liable therefore.
- B. The City may serve notice in writing upon the owner of property upon which a Hazard Tree is found, or other person who may be the cause thereof, and require the person or owner to abate the Hazard Tree within fifteen (15) calendar days.
- C. If an owner or responsible party refuses to abate a Hazard Tree after written notice and the time specified therein, the City may abate or procure the abatement of the tree at the expense of the person or entity failing to remove the tree.

12.17.060 Heritage Trees.

- A. Private property owners shall recommend or nominate Heritage Trees on their property on a voluntary basis. The Tree Advisory Board shall inventory such Trees and make its recommendation to the City Forester as to whether such tree should be classified as a Heritage Tree. In no case shall the City nominate and inventory a Heritage Tree on private property without voluntary consent of the owner of the tree. The designation of a tree as a Heritage tree that is owned by private landowner shall only apply to the landowner who consents to such designation.
- B. The Tree Advisory Board shall recommend and nominate Public Trees as Heritage Trees to the City Forester.
- C. Those trees that have been classified as Heritage Trees by the City Forester are protected. As such, Heritage Trees may not be removed or damaged without the authorization of the City Forester and a majority ratifying vote of the Tree Advisory Board.

12.16.070 Appeals.

- A. Appeals of any requirements under this ordinance shall be made to the City Forester in writing, signed by the applicant with a statement of reasons supporting the appeal. The City Forester shall render a decision within thirty (30) days in writing.
- B. The decision of the City Forester may be appealed to the City Council within twenty (20) days. The City Council shall have final authority.

12.16.080 Enforcement.

- A. The City Forester shall have power to enforce all regulations within this ordinance as they apply to Public Trees.
- B. Criminal. Any person found in wilful violation of any provision of this chapter shall be guilty of a Class C misdemeanor.
- C. Civil. A party who violates any of the provisions of this chapter causing the injury or death of Public Tree shall be required to replace the value of the tree in accordance with the most recent Valuation of Landscape Trees, Shrubs, and Other Plants, as published by the International Society of Arboriculture.
- D. The City may pursue both criminal and civil actions against any person or entity that violates this chapter.
- E. Each tree on which a violation occurs shall constitute a separate offense.

SEVERABILITY:

If any provision or clause of this chapter or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this chapter are declared to be severable.

EFFECTIVE DATE:

This ordinance shall take effect immediately upon its passage and publication as prescribed by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF AMERICAN FORK CITY,
STATE OF UTAH, ON THIS THE 27 DAY OF NOVEMBER, 2007.**

ATTEST:

AMERICAN FORK CITY

By: *K. M. Quinn*
City Recorder

By: *Heber M. Thompson*
Heber M. Thompson, Mayor

