

ORDINANCE NO. 4646

AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, TO AMEND SECTIONS 23-203, 24-102, 24-202, 39-102, 39-104, 39-105, 39-201, 39-202, 39-203, 39-204, 39-301, 39-302, 39-308, 39-309, 39-310, and 39-312 FOR CLARIFICATION AND REVISION OF THE OFFICIAL CITY CODE OF THE CITY OF HASTINGS, NEBRASKA; TO REPEAL SECTIONS 24-101 AND 24-217 OF THE OFFICIAL CITY CODE; TO REPEAL ANY ORDINANCE IN CONFLICT HEREWITH; AND TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HASTINGS, NEBRASKA:

SECTION 1. That Hastings City Code Section 23-203 of the official City Code be and the same is enacted to read as follows:

23-203. Parks; closing hours, exceptions.

The City Council or the Director of Parks and Recreation may, upon request by any resident of the City of Hastings, grant exceptions to the normal park closing hours for special activities, or where special circumstances arise.

SECTION 2. That Hastings City Code Section 24-102 of the official City Code be and the same is enacted to read as follows:

24-102. Same-Adoption of rules and regulations of Nebraska State Boat Act.

Any violation of the Nebraska State Boat Act currently set forth in Nebraska Revised Statutes Sections 37-1201 to 37-12,110 as the same may be amended from time to time shall constitute a violation of this section.

SECTION 3. That Hastings City Code Section 24-202 of the Official City Code be amended to read as follows:

24-202. Licenses and permits.

(1) No person shall operate any boat or personal watercraft (jet ski) powered by an internal combustion gasoline engine upon Lake Hastings without a permit for said boat. Permits shall be issued by the Park and Recreation Department upon payment of a fee established by the provisions of the City Council Fee Resolution in effect at the time of the application for the permit.

(2) No person shall operate any boat upon Lake Hastings without any license or certificate required for said boat by state or federal law or regulation, and proof of successful completion of an approved Nebraska Boaters Safety Course or its equivalent. Persons operating a boat upon Lake Hastings shall carry proof of course completion at all times and present proof to any Law Enforcement Officer upon demand.

(3) No person convicted of or any owner of a watercraft operated by a person convicted of violating Sections 24-204 reckless operation; speed restrictions; 24-205 operating under influence of alcohol or narcotics; and/or 24-210 disturbing, endangering, etc., other boats shall be allowed to operate upon Lake Hastings for the remainder of the calendar year and the following calendar year.

SECTION 4. That Hastings City Code Section 39-102 of the Official City Code be amended to read as follows:

39-102. Roots obstructing sidewalks, sewers, etc.

Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement, or so that the roots thereof interfere with any sewer or drain, shall be deemed an obstruction under this chapter. Such roots may be removed by the street superintendent or his or her duly authorized representative, at the expense of the owner, after the owner shall have failed or neglected after notice to do so.

SECTION 5. That Hastings City Code Section 39-104 of the Official City Code be amended to read as follows:

39-104. Street plantings-Rules and regulations.

The Director of Parks and Recreation, in cooperation with the Tree Board, shall formulate rules and regulations for the planting of trees on City owned real estate. Said rules and regulations, and any amendments thereto, shall be approved by the Hastings City Council.

SECTION 6. That Hastings City Code Section 39-105 of the Official City Code be amended to read as follows:

39-105. Same-Marking of line for planting.

It shall be the duty of the person about to plant trees on any City owned property, pursuant to the permit issued as required by Section 39-103, to call upon the Parks Superintendent or the Director of Parks and Recreation who shall properly mark the line on which same may be planted.

SECTION 7. That Hastings City Code Section 39-201 of the Official City Code be amended to read as follows:

39-201. Declared nuisances; removal generally.

Trees of all species and varieties, which are in a dead or dying condition are hereby declared to be a public nuisance, and shall be removed and burned or buried.

SECTION 8. That Hastings City Code Section 39-202 of the Official City Code be amended to read as follows:

39-202. Enforcement of article.

The Director of Parks and Recreation or Parks Superintendent is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the Director or Parks Superintendent from entering on private property for purposes of carrying out his duties under this article, or to interfere with the Director or Parks Superintendent in the lawful performance of his or her duties under the provisions of this article.

SECTION 9. That Hastings City Code Section 39-203 of the Official City Code be amended to read as follows:

39-203. Notice for removal.

If trees on private property are found to be infected or in a dead or dying condition, the Director of Parks and Recreation shall give to the owner, tenant, agent or occupant of the premises where the same are situated, written notice by publication or personal service of the existence of such disease or the dead or dying condition of such trees or parts thereof and require the removal and burning or burying of the same. Such notice shall also notify the owner of the premises that if such tree is not removed and burned or buried after 30 days notice, that such failure to remove shall subject the owner to a fine.

SECTION 10. That Hastings City Code Section 39-204 of the Official City Code be amended to read as follows:

39-204. Removal from private lands.

After due notice has been served upon the owner, tenant, agent or occupant of the premises, it shall thereupon become his or her duty to cause such trees to be removed and burned or buried. It shall be unlawful for any owner, tenant, agent, or occupant of any premises upon which is found any tree which is infected or in a dead or dying condition, to allow same to remain upon said premises for more than 30 days after receiving the notice described in Section 39-203 above.

SECTION 11. That Hastings City Code Section 39-301 of the Official City Code be amended to read as follows:

39-301. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park trees are defined as trees, shrubs, bushes and all other woody vegetation in public parks.

Public community forest is defined as all street and park trees, and other trees owned by the City as a total resource.

Private community forest is defined as all trees within municipal boundaries but not owned by the City.

Terrace trees are defined as trees, shrubs, bushes and all other woody vegetation on land lying between the property lines on either side of all streets and avenues within the City.

SECTION 12. That Hastings City Code Section 39-302 of the Official City Code be amended to read as follows:

39-302. Creation and establishment of a City Tree Board.

There is hereby created and established a City Tree Board for the City of Hastings, Nebraska, which shall consist of seven members, who shall reside within the City of Hastings or within the extraterritorial zoning jurisdiction of the City of Hastings. Members of the City Tree Board shall be appointed by the Mayor with the approval of

the City Council. The Director of Parks and Recreation shall be an ex-officio member of the City Tree Board.

SECTION 13. That Hastings City Code Section 39-308 of the Official City Code be amended to read as follows:

39-308. Distances and clearances for planting.

Distances and clearances for tree planting shall be as follows:

- (1) Trees may be planted in the terrace where there is more than 6 feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway or street.
- (2) Trees shall be planted no closer than 10 feet from any fire hydrant.
- (3) Trees shall be planted a minimum of 20 feet from any electric pole line with the exception of trees with a mature height of 20 feet or less.
- (4) Trees shall be planted 15 feet away from any street light pole.
- (5) Only trees with a mature height of 20 feet or less are allowed to be planted over, or within 5 lateral feet of any underground water, sewer, electric, gas or other utility line including service into a structure.
- (6) Trees shall be planted no closer than 5 feet away from all water and gas shut off boxes and electrical equipment.
- (7) Evergreen trees are prohibited on the terrace.

No tree shall be planted that does not comply with the vision clearance requirements specified in Section 34-306 of the Hastings City Code.

SECTION 14. That Hastings City Code Section 39-309 of the Official City Code be amended to read as follows:

39-309. Public tree care.

The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and all publicly-owned property, as may be necessary to insure the public safety.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature affects the safe operation and maintenance of electric power lines or other public improvements, or is seriously affected with any fatal disease.

The City shall remove and dispose of dead trees, tree stumps and large hanging, fallen or broken branches, when they are located upon city-owned property, including

parks and terraces. For the purposes of this section, the term "dead" shall mean a tree which is, in the judgment of the Parks Superintendent or Director of Parks and Recreation, at least 75 percent dead.

The abutting property owners shall have the responsibility to perform normal tree care on all terrace trees, which includes pruning as necessary.

SECTION 15. That Hastings City Code Section 39-310 of the Official City Code be amended to read as follows:

39-310. Tree topping.

It shall be undesirable as a normal practice for any person, firm, or City department to top any terrace tree, park tree, or other tree on public property. Topping, rounding off or pollarding is defined as the systematic cutting back of limbs within the tree's crown to such a degree 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 pruning practices are impractical may be exempted from this section by the Director of Parks and Recreation.

SECTION 16. That Hastings City Code Section 39-312 of the Official City Code be amended to read as follows:

39-312. Dead or hazard tree removal.

Hazard trees are defined as trees with severe structural defects or splits. Removal is the responsibility of the owners of such trees and shall be accomplished within time limits set by the Director of Parks and Recreation. The City will notify in writing the owners of such trees. The City shall have the right to remove any tree within the City limits that is dead or has been declared a hazard.

SECTION 17. That Hastings City Code Section 24-401 is hereby repealed.

SECTION 18. That Hastings City Code Section 24-217 is hereby repealed.

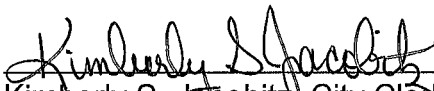
SECTION 19. That any ordinance passed and approved prior to the passage of this ordinance, and in conflict with its provision is hereby repealed.

SECTION 20. Ordinance shall take effect and be in full force from and after its passage, approval and publication in pamphlet form.

PASSED AND APPROVED by the Mayor and City Council of the City of Hastings, Nebraska, this 28th day of September, 2020.


Paul Hamelink, Council President

ATTEST:


Kimberly S. Jacobitz, City Clerk

(SEAL)



APPROVED AS TO FORM


Clint Schukei, City Attorney