

City of Seward, NE

Tuesday, August 2, 2016

Regular Session

Item G15

CONSIDERATION OF REQUEST TO AMEND ARTICLE 14, SECTION 2-1407, CITY TREE BOARD TO ADD THE AUTHORITY OF THE TREE BOARD TO PLANT TREES -

Matt Stryson

Administrative Report: The Tree Board is requesting an amendment to the City's Ordinance to allow the Tree Board to replace trees that have been removed. Attached is a copy of the current City Tree Ordinance, which includes the requested language change.

Following review and discussion, Council to provide direction to staff, which may include a motion to have staff prepare an ordinance with requested changes.

Staff Contact:

Bonnie Otte

From: City of Seward Website <wordpress@connectseward.org>
Sent: Thursday, July 21, 2016 9:49 AM
To: info
Subject: City Council Agenda Item Request

Date: July 21, 2016
Name: Matt Stryson
Address: 1039 N 5TH ST
Email: matt@hughesbros.com
Phone: 402-641-1603

Explanation of Request: Please provide letter from Tree Board to Mayor, City Council and City Administration for their consideration.

Action requested: Amend Art 14 Ordinance No. 12-82, June 1, 1982, Section 2-1407.
Change from TREE BOARD; TREES; CARE and REMOVAL to TREE BOARD; TREES; CARE, REMOVAL and PLANTING Add aftersymmetry and beauty of such public grounds and after approval by the Tree Board. " The Municipality shall have the right, after notifying proper owners, to utilize unused annually allocated ReLeaf monies for new plantings in streets, alleys, avenues, lanes, squares and public grounds, as previously listed above.

Will this agenda item require the expenditure of funds: Yes

Printed Name: Matthew C. Stryson

Signature: http://wp.connectseward.org/cityofseward/files/wpcf7_signatures/signature-209-1469112531.png

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This mail is sent via contact form on City of Seward <http://www.cityofsewardne.com>

13 July 2016

To: Mayor - Seward City Council - Seward City Administration

Regarding: Seward - Losing Trees at an Alarming Rate - an Astonishing Rate

As you may recall, the City of Seward Tree Board has been trying to sound the alarm - and garner any help possible - to replace an inordinate number of City Trees that are being cut down and removed. Our community is losing Hackberries, Silver Maples, Chinese Elms and many other City Trees at alarming rates. As noted at the July 12th Tree Board meeting, our most recent windstorm further increased our City Tree removal list to accelerated levels.

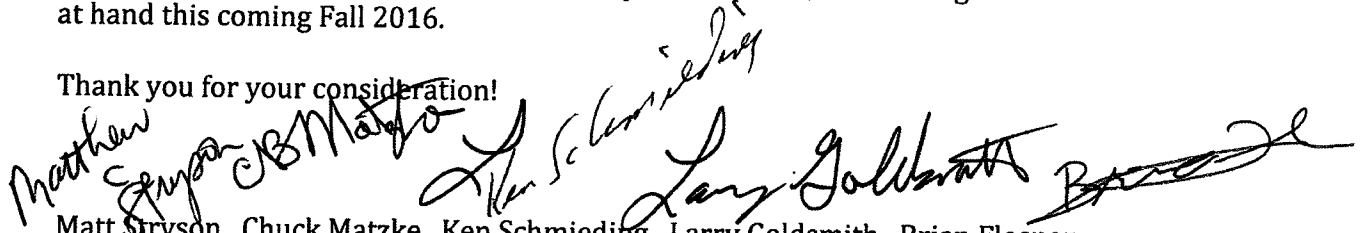
Trees have a life expectancy. Many were planted in the 1930s, 40s, 50s and 60s. Many of these Trees have met or exceeded their life expectancy. We commend the City of Seward's employees for many years of trimming and upkeep to try and keep our City's Trees healthy and growing. We're gracious that our forefathers had the where-with-all to plant trees and provide the shade and canopy we enjoy today.

We when remove Trees, we ask the property owners to replace the Trees. We invite them to participate in the City's ReLeaf program. [You can go to the City's web site - Government - City Hall - ReLeaf Tree grant for an application.] Unfortunately, it's become evident that our City Trees are not being replaced. The majority of the Property owners are not participating in the ReLeaf program or replacing City Trees on their own.

We are asking you - the Council - to give the Tree Board the authority to replace Trees. You have given us the authority to vote for Tree removal. We don't have the authority to replace the trees that have been removed. The City's annual ReLeaf budget is \$2500. Most years the majority of the ReLeaf budget goes unused.

We highly anticipate and look forward to a quick response, so we can get to the task at hand this coming Fall 2016.

Thank you for your consideration!


Matt Stryson Chuck Matzke Ken Schmieding Larry Goldsmith Brian Flesner

P.S. The Emerald Ash Borer has been discovered in Nebraska and its discovery makes it even more important to start a proactive approach to tree replacement.

Article 14. City Tree Board

[Editor's Note: Article 14 was adopted in its entirety by Ordinance No. 12-82, 6/1/82]

§2-1401 TREE BOARD; CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the City of Seward, Nebraska, which shall consist of five (5) members, citizens and residents of this City, who shall be appointed by the Mayor, with the approval of the City Council.

§2-1402 TREE BOARD; TERM, COMPENSATION, DUTIES AND RESPONSIBILITIES. The term of the five (5) persons to be appointed by the Mayor shall be three (3) years, except that the term of two (2) of the members appointed to the first Board shall be for only one (1) year, and the term of two (2) members of the first Board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. Members of the Board shall serve without compensation.

It shall be the responsibility of the Board to study, investigate, counsel and develop a written replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented to the City Council and upon their acceptance and approval, shall constitute the official comprehensive City tree plan for the City of Seward, Nebraska. The Board shall review annually and update, if needed, the comprehensive City tree plan. The Board shall prepare and present an annual work plan to the City Council for their acceptance and approval. The Board, when requested by the City Council, shall consider, investigate, make findings, reports and recommendations upon any special matter(s) of questions coming within the scope of its work. (Amended by Ord. No. 4-94, 2/1/94)

§2-1403 TREE BOARD; OPERATION. Section 1. TREE BOARD; OPERATION. At the first (1st) meeting in June of each year, the Board shall organize by selecting from its membership a Chairman and Secretary. The Secretary shall keep the full and correct minutes and records of all meetings and file the same with the Municipal Clerk within ten working days, or prior to the next convened meeting, whichever occurs earlier. An additional ten days shall be allowed for providing the minutes in the event of the secretary's serious illness or an emergency which prevents him/her from writing such minutes. A majority of the members shall be a quorum for a transaction of business. The Board shall meet quarterly on the second (2nd) Tuesday of January, April, July and October, with additional meetings as needed. (Amended by Ord. No. 4-94, 2/1/94, Amended by Ord 52-05, 10-18-2005 Amended by Ord 1-09, 2-17-2009)

§2-1404 TREE BOARD DEFINITIONS.

STREET TREES: "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

PARK TREES: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access.

SMALL TREES: "Small trees" are herein defined as trees which by their nature do not normally attain heights greater than twenty-five feet (25') at maturity.

MEDIUM TREES: "Medium trees" are herein defined as trees which by their nature normally attain heights of from twenty-five to forty-five feet (25' to 45') at maturity.

LARGE TREES: "Large trees" are herein defined as trees which by their nature attain heights greater than forty-five feet (45') at maturity.

§2-1405 TREE BOARD; TREE SPECIES TO BE PLANTED. The City Tree Board shall establish and maintain a list of Tree Species which shall constitute the official Street Tree species for the Municipality of Seward, Seward County, Nebraska. Said list shall be reviewed on an annual basis by the City Tree Board, and a copy of the listing of official Street Tree species for the City shall be maintained on file with the City Clerk and said list shall be made available to any person upon request. (Amended by Ord. No. 4-94, 2/1/94)

§2-1406 TREE BOARD; TREES; DISTANCE FROM UTILITY LINES. No Street Trees or Park Trees other than those species listed as Small Trees in section 2-1405 of this Article, or species specifically approved by the Municipal Tree Board, 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 water line, sewer line, transmission line or other utility, line, wire or main. No street tree shall be planted within ten feet (10') of any fire hydrant.

~~§2-1407 TREE BOARD; TREES; CARE AND REMOVAL.~~ **TREE BOARD; TREES; CARE, REMOVAL AND PLANTING.** The Municipality shall have the right, after notifying the property owner(s) and allowing sufficient time for them to eliminate the problem(s), to plant, prune, maintain or remove Street Trees or Park Trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds and after approval by the Tree Board. **The Municipality shall have the right, after notifying proper owners, to utilize unused annually allocated ReLeaf monies for new plantings in streets, alleys, avenues, lanes, squares and public grounds, as previously listed above.**

The Municipal Tree Board may, after notifying the property owner(s) and allowing sufficient time for them to eliminate the problem(s), cause or order to be removed any Street Tree or Park Tree or part thereof which is in an unsafe condition or which, by reasons of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

The Utility Companies may remove, at their expense, trees or parts thereof which are injurious to their utility lines, after negotiating with the property owner(s).

No person or property owner shall remove any live Street Tree or Park Tree for any reason without written permission of the Municipal Tree Board. Provided, however, when said Utility Companies confront an emergency situation, they will have the authority to trim or remove the trees or parts thereof at their own discretion and expense.

§2-1408 TREE BOARD; TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or Municipal department to top any Street Tree, Park Tree or other tree on public property. Topping is defined as the severely cutting back of limbs to stubs larger than three inches (3") 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 pruning practices are impractical may be exempted from this Article at the determination of the Municipal Tree Board.

§2-1409 TREE BOARD: OBSTRUCTION, PRUNING, REMOVAL. All trees and shrubs within the Municipality shall be pruned or removed when such trees or shrubs obstruct the light from any street lamp, obstruct the visibility of any traffic control device or sign, obstruct the passage of pedestrians on sidewalks, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be fourteen feet (14') on all arterial and collector streets and eleven feet (11') on all residential streets and seven feet (7') over sidewalks.

All shrubs and hedges defined as Street Trees in this Article shall be kept trimmed by the abutting property owner at least one foot (1') back from all curbs, sidewalks, driveways or alleys; and the same shall at all times be kept trimmed to a height not greater than thirty inches (30") above the top of the curb unless the Municipal Tree Board, for other than corner lots, determines that a greater height would not constitute a hazard to pedestrian or vehicular traffic.

The Municipal Tree Board shall notify, in writing, the owners of such trees or shrubs on private property. Pruning shall be done by said owners at their own expense within sixty (60) days after the date of notification. In the event of failure of owners to comply with said notice, the Municipality shall have the authority to prune said trees or shrubs and assess the cost of said pruning to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner as provided by law.

§2-1410 TREE BOARD; DEAD OR DISEASED TREES, PRUNING, REMOVAL. All trees and shrubs within the Municipality shall be pruned or removed when such trees or shrubs constitute a hazard to life and property, or harbor insects or disease which constitute a threat to other trees or shrubs within the City.

The Municipal Tree Board shall have the power and authority to prune or remove, or order to prune or remove, any such trees or shrubs on private property. The Municipal Tree Board shall notify, in writing, the owners of such trees or shrubs. Pruning or removal shall be done by said owners at their own expense within sixty (60) days after the date of notification. In the event of failure of owners to comply with said

notice, the Municipality shall have the authority to prune or remove said trees or shrubs and assess the cost of said pruning to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner as provided by law.

§2-1411 TREE BOARD; WORK ORDERED OR DONE BY THE CITY. Written permission shall not be required for any tree, shrub or hedge planting, pruning, spraying or removing ordered or done by the City; however, all such work shall be done in conformance with the requirements of sections 2-1405 through and including 2-1410 of this Article and the following regulations and provisions.

The City of Seward Electric Department is responsible for maintaining adequate clearance from trees and branches approaching overhead primary, secondary and service electrical lines. The City Street Department is similarly responsible for insuring that the City's streets, alleys and walkways are clear of any trees, branches or shrubs which could obstruct the path or sight-distance of the motorist and/or pedestrian.

The City of Seward is also cognizant of the fact that trees serve an important aesthetic and energy saving purpose for the residents of the City. It is therefore necessary to establish clear and specific rules regulating how the trimming and/or removal of trees and shrubs is to be implemented when necessary.

1. NOTICES TO RESIDENTS. When it is determined that a tree or shrub requires trimming or removal, the City shall deliver or mail by means of certified mail, return receipt requested, to the owner or tenant of the abutting or affected property a notice advising him/her of the problem, the approximate location, and the suggested remedy. In addition, the notice shall advise the owner/tenant that he/she has ten (10) days in which to contact the City if questions or objections concerning the action exist; and that if no contact is made with City Personnel during this time, the City will proceed with the project as described in the notice.

The notice, as described above, shall apply to all cases, except when an emergency exists or when it is necessary to remove a tree or branches in order to restore electrical service or to open up a street blocked by a tree or branch.

2. REMOVAL OF TREES OR SHRUBS. Trees shall be taken out only if the following conditions exist:

- a. If the tree of concern is dead or affected by disease to the extent that it could not survive on a long-term basis.
- b. If the tree or shrub of concern is located in such a position that it cannot be trimmed properly to resolve the problem, without ruining its aesthetic appearance,

3. TRIMMING OF TREES OR SHRUBS. If in the opinion of City personnel it is necessary and feasible to trim a tree or shrub, trimming shall be completed in the following manner:

- a. Tree branches affecting overhead power lines shall be trimmed back from the power line a minimum of forty -eight inches (48").
- b. Tree branches nearer to a street or sidewalk than the standards set forth in section 2-1410 of the City Codes shall be trimmed back to a point which meets these standards.
- c. Wherever feasible, branches shall not be stubbed In the middle of a branch; rather the branch shall be trimmed at that point where it joins with a greater sized branch of the trees.

4. REMOVAL OF BRANCHES. Trees, branches and shrubs taken down by the City shall be removed from the property as soon as is practical after they have been felled. In no case shall the timber be left on the property longer than five (5) working days after the trimming took place.

5. APPEAL OF CONFLICTS BETWEEN CITY PERSONNEL AND PROPERTY OWNER OR TENANT. If a property owner and/or tenant objects to the action proposed by City personnel and efforts to mutually resolve the objection between the parties involved fail, the City's Tree Board shall serve as a Hearing Board to resolve the dispute. Appeal to the Tree Board shall be made in writing to the City Clerk/Treasurer's office. When an appeal is filed, City personnel shall taken no further action to trim or remove the tree or shrub until the Tree Board has acted on the appeal. The Tree Board shall hear all appeals of this nature within thirty (30) days after it has been filed with the City Clerk/Treasurer.

6. APPLICABILITY OF TREE POLICY FOR TREES LOCATED ON PRIVATE PROPERTY AND ON PUBLIC PROPERTY. The above policies shall be applicable to trees and shrubs located on private property, as well as those located on public property, rights-of-way and easements.

7. REMOVAL OF STUMPS. If a tree must be removed, the City will be responsible for removing the stump. Stumps are generally removed once a year, usually in October or November of the year. All stumps from trees removed from the City shall be removed within one (1) year of tree removed.
(Amended by Ord. No. 8-86, 6/17/86)

§2-1412 TREE BOARD; ABUSE OR MUTILATION. Unless specifically authorized by the Municipal Tree Board, no person shall intentionally damage, cut, carve, transplant or remove any Street Tree or Park Tree; attach any rope, wire, nails, advertising posters or other contrivance to such trees; allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn

when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices.

§2-1413 TREE BOARD; PROTECTION OF TREES. All Street Trees or Park Trees near any excavation or construction of any building, structure or street work, shall be guarded with a substantial fence, frame or box not less than four feet high and eight feet square (8' x 8' x 4') and all construction materials, soil or other debris shall be kept outside the barrier. This shall be the responsibility of the persons or firms doing the construction work.

No person shall excavate any ditches, tunnels, trenches or lay any drive within ten feet (10') of any Street or Park Tree without first obtaining written permission from the Municipal Tree Board.

No person shall deposit, place, store or maintain upon any public property of the Municipality, any stone, brick, sand, soil, concrete or other material which may impede the free passage of water, air and fertilizer to the roots of any Street Tree or Park Tree, except by written permission of the Municipal Tree Board.

§2-1414 TREE BOARD; REMOVAL OF STUMPS. All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§2-1415 TREE BOARD; REVIEW BY THE GOVERNING BODY. The City Council of the Municipality shall have the right to review the conduct, acts and decisions of the Municipal Tree Board. Any person may appeal any ruling or order of the Municipal Tree Board to the Governing Body who may hear the matter and make final decision.

§2-1416. TREE BOARD; REMOVAL OF STREET OR PARK TREES WITHOUT PERMISSION. It shall be unlawful for any person or property owner to remove any Street Tree or Park Tree for any reason without written permission of the Municipal Tree Board. Upon conviction, the penalty for said offense shall not be less than \$100.00 nor more than \$500.00.(Ord, 18-07, 8-7-2007)