

**ORDINANCE NO. 812 (16)**

**AN ORDINANCE AMENDING PART 8, CHAPTER 2 OF THE MOORE MUNICIPAL CODE BY CREATING SECTIONS 8-210 THROUGH 8-216 ESTABLISHING A DUTY TO REMOVE DEAD OR DISEASED TREES; PROVIDING FOR NOTICE AND A HEARING PRIOR TO ABATEMENT; PROVIDING FOR DETERMINATION AND ASSESSMENT OF COSTS; PROVIDING FOR COLLECTION OF LIEN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER;**

**BE IT ORDAINED BY THIS COUNCIL OF THE CITY OF MOORE, OKLAHOMA THAT:**

**PART 8, CHAPTER 2, OF THE MOORE MUNICIPAL CODE IS HEREBY AMENDED TO READ AS FOLLOWS:**

**SECTION 8-210      ALLOWING DEAD OR DISEASED TREE TO REMAIN ON ANY LOT WITHIN THE CITY**

- A. It is unlawful for any owner or occupant of any lot, tract or parcel of and situated wholly or in part within the corporate limits of the City to allow a dead or diseased tree to stand upon such premises, or along the sidewalk, street or improved alleys adjacent to such premises. It is the duty of such owner or occupant to remove said dead or diseased tree which shall be cumulative.

**SECTION 8-211      DUTY OF OWNER, OCCUPANT TO MAINTAIN PRIVATE PROPERTY**

No person owning, leasing, occupying or having charge of any private property or premises shall maintain or allow any dead or diseased tree thereon in the neighborhood in which the premises are located. No prosecution may be undertaken under this section until such person shall have been given forty-five (45) days' notice by the City of the condition and an order to fully abate the alleged deficiency by removal of the dead or diseased tree.

**SECTION 8-212      REPORTS OF DEAD OR DISEASED TREES**

Any officer or employee of the City who discovers a dead or diseased tree upon any premises within the limits of the City, shall report the condition to the Community Development Director or their designee.

**SECTION 8-213      RECEIPT OF REPORT, HEARING AND NOTICE**

- A. Upon determination that a violation of Section 8-210 of the code exists the administrative officer shall give written notice of the finding and direct the owner or occupant to abate the condition by removing the dead or diseased tree within forty five (45) days. The administrative officer may grant additional time as deemed to be reasonable for the cutting, removal or destruction of the dead or diseased tree.
- B. The written notice in Subsection A shall be sent by certified mail to the occupant or owner of the property at the address shown by the current year's tax rolls in the Office of the Treasurer of the county in which the property is located.

If the property owner cannot be located notice may be given by posting a copy of the notice on the property or by publication as provided in Section 1-102 of Title II of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action by the City. At the time of mailing of notice to the owner or occupant, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicated the date of mailing and the name and address of the mailer.

- C. The owner or occupant may give written consent, authorizing the City to abate the dead or diseased tree. Such consent shall waive the right of the owner or occupant to a hearing under Subsection D of this section.
- D. At any time within ten (10) days after the date of mailing, posting or publication of the notice required in this section, the owner or occupant may request, in writing addressed to the Community Development Director or their designee, a hearing for the purpose of contesting the determination that a dead or diseased tree exists on the property. The Community Development Director or designee shall conduct a hearing as soon as practicable but not earlier than five (5) days after receipt of the owner's request for such hearing, and not later than fifteen (15) days after such receipt. At such hearing said owner shall have the right to be represented by counsel, to present testimony, offer evidence and arguments, and to cross examine witnesses. If the Community Development Director, or designee, after such hearing shall determine that any dead or diseased tree exists on the property, and that the person or persons requesting such hearing are owners of the property upon which said dead or diseased tree is located, the Community Development Director, or designee, shall file in writing their findings of fact and order that such dead or diseased tree be removed within forty five (45) days, and shall cause such findings, and order to be served upon such owner within ten (10) days of the conclusion of the hearing.

#### **SECTION 8-214**

#### **ABATEMENT BY CITY**

- A. In the event that no hearing shall have been requested as provided for in this chapter, or such dead or diseased tree shall not have been abated within the respective period specified the Community Development Director or designee may cause such dead or diseased tree to be abated.

## **SECTION 8-215**

## **DETERMINATION AND ASSESSMENT OF COSTS**

Upon the completion of the work ordered to be performed under Section 8-213 of this code, the Community Development Director or designee shall certify the actual and necessary cost required to be expended in the abatement of the dead or diseased tree, together with such administrative expense for mailing of notices and other allowable costs, with a demand for payment of the total cost, and forward it by mail to:

1. The occupant or owner of the property at the address shown by the current tax rolls in the office of the Cleveland County Treasurer, or
2. To the address by the person giving his written consent or requesting the appeal as provided in 8-213.

## **SECTION 8-216**

## **LIEN ON THE PROPERTY, CIVIL REMEDY**

If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing the notice prescribed by Section 8-215 hereof, the clerk shall forward a certified statement of the amount of the costs to the County Treasurer of Cleveland County, in order that the amount be levied upon the property and be collected by the County Treasurer in the manner prescribed by the law of this state. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner and a lien against the property as provided law. The lien on the property is coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all titles and liens against the property. The lien shall continue until the cost is fully paid. At any time prior to collection as provided in this section the city 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. Upon receiving payment, in full, the clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien.

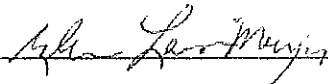
## **Severability**

If any of the provisions of this ordinance are determined to be unconstitutional or unlawful by any court of competent jurisdiction, the remainder shall be severable and unaffected.

## **Repealer**

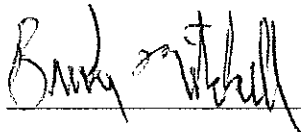
Any ordinance or parts thereof in conflict with this section are hereby repealed.

PASSED AND APPROVED THIS 2<sup>nd</sup> DAY OF May, 2016.


  
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GLENN LEWIS, Mayor



ATTEST: (Seal)

  
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Brooks Mitchell, City Clerk

APPROVED AS TO FORM AND LEGALITY:

  
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RANDY C. BRINK, City Attorney