

ORDINANCE NO. 796

AN ORDINANCE AMENDING TITLE 12 OF THE LOWDEN MUNICIPAL CODE OF ORDINANCES, BY AMENDING CHAPTER 12.16, "STREET TREES," TO PROVIDE FOR AND REGULATE THE PLANTING OF TREES ON PUBLIC PROPERTY AND IN PUBLIC RIGHT-OF-WAY.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWDEN, IOWA:

SECTION 1. That Chapter 12.16, entitled "Street Trees," of the Lowden Municipal Code of Ordinances be and the same is hereby amended by repealing Chapter 12.16, "Street Trees," and enacting in lieu thereof a new Chapter 12.16 "Tree Ordinance" to be codified, the same to read as follows:

Section 12.16.010. Purpose:

The City acknowledges the importance of trees in beautifying and preserving the appearance of the City. It is the purpose of this Ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of planting, maintenance and removal of trees, shrubs and other plants within the City of Lowden.

Section 12.16.020. Definitions:

1. "Parking" shall mean that part of the street, avenue or highway in the City of Lowden not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

2. "Property owner" shall mean a personal and private property owner in the City of Lowden as shown by County tax records and plat records of the City.

3. "Public property" shall mean any and all property located within corporate City limits and owned by the City of Lowden or held in the name of the City of Lowden by any of the departments, commissions or agencies within any of the City departments, commissions or agencies of the City of Lowden.

4. "Street tree" shall mean a tree in a public place, except where otherwise indicated. Trees located within the area known as the parking, or located between the edge of the street and sidewalk, are known as street trees.

Section 12.16.030. Tree Board:

1. There is hereby created and established a Tree Board for the City of Lowden, which shall consist of five members, citizens and residents of the City, who shall be appointed by the Mayor with the approval of the City Council.

2. Members of the Tree Board shall serve without compensation.

Section 12.16.040. Street Tree Species:

1. The following trees may be planted within the parking of the City:

Medium-Size Tree

Crabapple (Columnars only)
Little Leaf Linden
Redmond Linden

Large-Size Tree

White Oak
Red Oak
Black Oak
Swamp White Oak
Pin Oak
Basswood
Sycamore
Hackberry
Hard Maples

2. No tree species other than those listed above may be planted as street trees without written permission of the Tree Board. No conifers or evergreens may be planted in the parking of any City street. The above list of tree species may be amended from time to time as the City deems it necessary.

Section 12.16.050. Regulation:

1. All street trees planted shall have trunks not less than one-half (1/2) inch in diameter at six (6) inches above the ground.
2. All street trees shall be planted in line with each other And at a spacing of twenty-five (25) feet.
3. No street tree shall 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 utility wire or water or sewer line.
4. No tree shall be planted within fifteen (15) lateral feet from corners or intersections.
5. All trees and shrubs on public or private property, which have branches overhanging a public street or sidewalk, shall have said branches trimmed to a clearance height of fourteen (14) feet above the surface of the street and 8 (eight) feet above the surface of the sidewalk.
6. All trees planted on private property shall be planted a minimum of five (5) feet from adjacent properties, based on the known surveyed property line, and all utilities must be located before planting.

Section 12.16.060. Obstruction:

1. It shall be the duty of any person or persons owning or occupying real property bordering any street upon which property there may be trees to prune such trees in a manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be (8) eight feet over sidewalks and fourteen (14) feet over all streets.

2. The pruning of trees in the public right-of-way is the responsibility of the abutting property owners. If the abutting property owner fails to trim the trees as required herein, the City may serve notice on the abutting property owner requiring that such action be taken within thirty (30) days. If such action is not taken within that time, the City may perform the required action and assess the cost against the abutting property owner for collection in the same manner as a property tax or issue a misdemeanor criminal citation or municipal infraction citation as the City deems just.

Section 12.16.070 Dead or Diseased Trees:

1. The abutting property owner shall not be required to remove diseased trees or dead wood on publicly owned property, public right-of-way.

2. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute, in the opinion of the City, a hazard to life or property or harbor insects or disease which constitutes a potential threat to citizens or other trees or shrubs within the City.

3. The City shall notify, in writing, the owners of any dead or diseased tree on private property, which the City wishes to have removed pursuant to the foregoing paragraph. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event that the owners fail to comply with such provision,

after notice, the City shall have the authority to remove such trees and assess the costs against the abutting property for collection in the same manner as a property tax or issue a misdemeanor criminal citation or municipal infraction citation.

Section 12.16.080. Tree Topping:

1. It is prohibited, as a normal practice, for any person to top any street tree or other tree on public property. Topping is defined as the severe cutting back of limbs, to stubs larger than three (3) inches in diameter, within the tree's crown, to such a degree so as to remove the normal canopy and disfigure the tree.

2. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted from this section, at the determination of the City Council.

3. Tree trimming and tree topping conducted by the employees of utility companies shall be exempt from this section.

Section 12.16.090. Removal of Stumps:

All stumps of street trees and other trees on public property shall be removed below the surface of the ground so that the top of the stump does not project above the surface of the ground.

Section 12.16.110. Protection of Trees:

1. During development, redevelopment, razing or renovating, no more than fifty percent (50%) of the trees shall be cut, damaged or removed, except by specific permission by the Lowden City Council. No person shall excavate any ditches, tunnels, trenches or lay any drive within a radius of twenty (20) feet from any tree.

2. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters or other contrivance to any tree;

allow any gaseous liquid, chemical or other solid substance that is harmful to such trees to come in contact with trees; or set fire or permit fire to burn when such fire or the heat from the fire will injure any portion of the tree.

Section 12.16.120. Emergency:

The Mayor may declare a state of emergency in the event of a storm, disaster, tree disease or other cause and order the removal of trees, fallen limbs or debris between the edge of the street and sidewalks at City cost and expense.

Section 12.16.130. Violation – Penalty:

Any person violating any of the provisions of this Chapter may be charged with either a simple misdemeanor criminal citation or a municipal infraction civil complaint as provided for in the Lowden Municipal Code of Ordinances.

SECTION 2. REPEALER. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval and publication as required by law.

PASSED AND APPROVED this 4 day of JUNE, 2012.

CITY OF LOWDEN, IOWA

By: Barry Hoffmeier, Mayor

Attest: Peggy Kedley, City Clerk