

ORDINANCE NO. 113

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE MAINTENANCE OF TREES WITHIN THE CITY OF CROOKS PUBLIC RIGHT OF WAYS.

BE IT ORDAINED by the City Council of the City of Crooks, South Dakota:

Sec 1.01 Purpose

The Purpose of this ordinance is to protect, promote and enhance the welfare, safety, health and property of the general public by maintaining diseased, dying or overgrown trees or shrubbery in the public right of ways or easements of private properties within the City of Crooks.

Sec 1.02 Definitions

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

“Public Right of Way or Easement” means the area between the homeowner’s lot pins and the public street, including sidewalks and alleyways, whether paved or not.

“Tree” means a tree or shrubbery in any public right of way, easement or other public place.

“Private owner” is the property owner of land adjoining the public right of way or easement.

Sec 1.03 Duties of Private Owners

It shall be the duty of any person growing a tree within the public right of way or other public place or responsible for trees growing on property abutting on public places supporting trees or shrubs to:

- (1) Trim tree so as not to cause a hazard to public places or interfere with the proper lighting of public streets or avenues by the streetlights. All large established trees shall be trimmed to sufficient height to allow free passage of pedestrians and vehicular traffic and in such manner so as to allow 16 feet clearance over arterial or collector streets.
- (2) Treat and remove any tree so diseased or insect ridden as to constitute a hazard to trees in public places.
- (3) Remove any tree that constitutes a safety hazard to the general public.

Sec 1.04 Planting of trees

Upon passage of this ordinance, no tree may be planted in any public right of way or easement.

Sec 1.06 Enforcement of Article

The City Council is hereby authorized and directed to administer and enforce all of the provisions on this Article.

Sec 1.07 Notice to Abate-Issuance

Whenever the City is notified, by written complaint, that any conditions prohibited in this Article exist on any premises located within the City, the City Council shall give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting or maintaining such nuisance to abate the same within a reasonable time as provided in such notice.

Sec 1.08 When Notice Waived

Whenever the owner, occupant or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the City Council shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

Sec 1.09 Right of Appeal

The owner or any person affected shall have the right of appeal to the City Council for a Notice to Abate. Such appeal shall be in writing, shall state the objections of the person filing the same, shall be filed with the Finance Officer within ten (10) days after the date of posting, publishing, serving or mailing of Notice to Abate, and shall be presented to the City Council by the Finance Officer at its next regular meeting. The City Council shall determine by resolution whether the City shall proceed in accordance with the Abatement Notice, or as modified by the Council, or not at all, and its decision thereon shall be final and conclusive.

Sec1.10 Abatement by City

In the event a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him to do so, the City Council shall cause such nuisance to be abated.

The City Attorney shall prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement with the Finance Officer. Such statement shall refer to the particular premises upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the

lot lies or upon which nuisance was located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

Sec 1.11 Alternative Abatement Procedure

In addition to any method of abatement of nuisances within the City provided by the provisions of the Article, any nuisance found within the City may be abated in the manner provided by state law.

Sec 1.12 Notice of Equalization of Assessment

Within ten (10) days after the filing of the statement referred to in Section 1.10 of this Article, the Finance Office shall cause to be served upon the owner, agent of the owner, lessee, occupant or person in possession of the parcel of land described in the statement and in the notice personally or by mail addressed to his or her last known address or to general delivery, Crooks, South Dakota, if such address is unknown.

Sec 1.13 Equalization of Assessment- Hearing

The owner or any person affected shall have the right to appeal to the City Council concerning the proposed assessment. Such appeal shall be in writing, shall state the objections of the person filing the same, and shall be filed with the Finance Officer within ten (10) days after the notice. Said objections shall be presented to the City Council by the Finance Officer, at their next regular meeting. The City Council shall determine by resolution the assessment and shall proceed to place a lien against said property until the assessment is paid.

Sec 1.14 Recovery of Expenses- Special Assessment

The City Council may recover the expenses incurred by the City in abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred.

Sec 1.15 Recovery of Expenses-Civil Suit

The City Council may recover the expenses incurred by the City in abating any nuisance under the provisions of this Article from the person creating, permitting or maintaining the same in a civil suit instituted for such purpose.

Sec 1.17 Conflicting Ordinances Repealed

All ordinances in conflict herewith are hereby repealed.

Adopted this 5th day of November, 2001

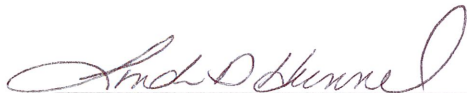
First Reading
Second Reading
Final Passage & Adoption
Publication Date

October 1, 2001
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November 5, 2001
November 14, 2001



Randal DeRaad, Mayor

ATTEST:



Linda D. Hunnel, Finance Officer
(MUNICIPAL SEAL)